

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: LICENSING

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GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUCTION HOUSE. Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

AUCTIONEER. Any person who shall operate an auction house or who, as a principal or agent, shall offer any article for sale by public outcry and where such items offered at auction are sold immediately to the highest bidder.

BRANCH ESTABLISHMENT. A different and separate location, or a separate kind or class of business carried on at one location, or in the case of vehicles, a different and separate vehicle, from that mentioned in any other license held by the same licensee, in or from which any business may be conducted at the same time. Any person carrying on a business at one location containing several departments, all of which are presided over and carried on exclusively by the person as proprietor, is required to apply for only one business license.

BUSINESS. Any profession, trade, occupation, lessor, and all and every kind of calling carried on for income, profit, or livelihood as provided for under § 110.02 of this chapter.

CASUAL ACTIVITY OR SALE. A transaction of an isolated nature made by an individual who neither represents himself to be nor is engaged in a business subject to licensing by this title. However, no sale, rental, license for use, or lease transaction concerning real property shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

CHARITABLE INSTITUTIONS. Only nonprofit corporations operating physical facilities in this state at which are provided charitable services, a reasonable percentage of which are without cost to those unable to pay.

ENGAGED IN BUSINESS. The conducting, managing, or carrying on of any profession, trade,

calling, occupation or commercial enterprise in the city for which a license is required under the provisions of this title as owner, officer, agent, manager, employee, or lessee of any of them.

EXEMPT LICENSE. A license issued under this title for which a payment of a fee is not required.

JUNK COLLECTOR. A person, firm, or corporation having a trucking license as provided in this code, traveling from place to place within the city for the purpose of purchasing junk, or making a business of purchasing junk from anyone who desires to sell it and carries it away upon purchasing it.

JUNK DEALER. Any person who collects or buys junk, including such items as rags, bottles, scrap metal, paper, and such other material as is usually collected for salvage purposes and where such person holds it for storage or offers it for sale.

LICENSEE. A person holding or applying for licensure under this title.

PAWNSHOP. Any establishment in which is carried on the business of pawn brokerage, or the business of loaning money, receiving as security for payment thereof pawns or pledges of property, or the business of purchasing personal property and reselling or agreeing to resell, trade, or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of such purchase, whether such business be the principal or sole business so carried on or be merely incidental to, in connection with, or a branch or a department of some other business.

PERSON. Any individual, tradesperson, self-proprietorship, partnership, joint venture, firm, corporation, association, organization, group, syndicate, or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and shall include those operating or intending to operate for-profit, not-for-profit, or non-profit. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of licensure. This definition shall not include the U.S. Government, the state, the county, the city, or any political subdivision or agency of the federal, state, county or municipal governments.

SALE. Any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. Sale includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. **SALE** also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

SECONDHAND DEALER/ANTIQUE DEALER. Any person, other than a person who deals exclusively in secondhand books, magazines, handbills, and/or posters, engaged in conducting, managing, or carrying on the business of buying, selling, trading, or exchanging, or otherwise dealing in secondhand goods, wares, merchandise, or articles, whether such business be the principal or sole business so carried on, managed, or conducted or be merely incidental to, in connection with, or a branch or a department of some other business. The term shall not be construed to exclude trade-ins, dealers, or auctioneers in articles of property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in all appropriate offices of state or county government.

SQUARE FEET. The total square feet of floor area, all floors, based on the exterior dimensions of the building space utilized or occupied by the person for business purposes, including warehouse, storage, interior dock space, washroom, restroom, hallways, lunchroom, and maintenance areas, and all other such square

footage necessary for the conduct of the business operation. It shall not include: common areas leading to occupied business areas within shared commercial building space situations; parking lots, lumber yards, orchards, or other outdoor areas; accessory shelters, repair or storage facilities, provided it shall not occupy more than 25% of the gross floor area of the business; or property represented, managed, or listed by a landlord, real estate company, or lessor other than the square footage utilized for the conduct of the business of the landlord, real estate company, or lessor.

TRADE-IN. The acceptance, sale, or disposal of used automobile tires or automobile batteries, farm implement parts, farm machinery parts, road equipment parts, mining equipment parts, automobile parts, or road equipment parts taken in part payment for new or reconditioned automobile tires, automobile batteries, farm implement parts, farm machinery parts, road equipment parts, mining equipment parts, or automobile parts. Dealers exchanging articles in the course of service or construction work shall not be deemed to constitute the doing of any business defined under this term.

(Ord. passed 3-7-95)

§ 110.02 BUSINESS LICENSE REQUIRED.

(A) It shall be unlawful for any person to commence or conduct, or propose to commence or conduct, either directly or indirectly, a business within the city and identified by the provisions of this chapter, unless a license therefor, expiring on April 30 annually, has been issued by the City Clerk upon payment of the fee prescribed by the provisions of this chapter. A business or business activity required to file under this chapter shall include: butchers; petty grocers; hucksters; peddlers; hawkers, common victualers; dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or second-hand articles; pawnbrokers; taxicab companies; companies engaged in towing motor vehicles without the consent or authorization of the owner or operator; employment offices; establishments engaged in Sunday activities; circuses; carnivals; performers and exhibitors; arcades; dances, dance halls or entertainment places of assembly; transient or itinerant photographers; peddlers; fairs; and such other activities, devices, or vehicles that may be cited by this chapter.

(B) A business required to file under this title shall comply with all applicable municipal rules, regulations, and ordinances including, but not limited to, those issued by the Building, Zoning, Health, Police and Fire Departments and the applicable statutes, rules and regulations of the state or its agencies.

(C) As a condition of licensure, and at any time during the license period, a business required to file under this chapter may be subject to additional restrictions or conditions ordered by the Building, Health, Police or Fire Departments as may be warranted by any circumstances pertaining to a specific establishment or to prevent any nuisance related to or caused by the licensed activity. A nuisance, in addition to its common law meaning, is anything that endangers life, health or safety, gives offense to senses, violates common standards of decency or obstructs reasonable and comfortable use of any property.

(Ord. passed 3-7-95; Am. Ord. passed 6-4-96; Am. Ord. passed 11-19-96; Am. Ord. passed 2-4-97; Am. Ord. passed 7-1-97; Am. Ord. passed 1-19-99) Penalty, see § 110.99

§ 110.03 LICENSE REMAINS PROPERTY OF CITY.

Licenses granted under this title shall remain the property of the city and are to be returned to the office of the City Clerk during a period of suspension, after revocation, or if the person, firm, corporation, or association holding the business license ceases to operate.

(Ord. passed 3-7-95)

§ 110.04 DUTY OF CORPORATE OFFICERS OR AGENTS TO PROCURE LICENSE.

It shall be the duty of all officers and agents of any corporation to see that such corporation complies with the provisions of this title. All officers or agents of any corporation required by this title to be licensed which shall do business without having paid the license fee and procured such license shall be subject to the penalties imposed by this title upon persons violating this title.

(Ord. passed 3-7-95)

§ 110.05 SUNDAY ACTIVITIES.

(A) It shall be lawful to engage in play or in any sport or game involving physical skill on the Lord's Day in the city. It shall be lawful to engage in public dancing, horse racing, boxing, prizefighting, wrestling, pool or billiards, and a sport or game in connection with which an admission or fee is charged, or at which a donation is made or accepted, only within those hours as allowed by state statute, provided a business license has been issued. The Board of Mayor and Aldermen may restrict the matter and areas upon which such play, sports or games shall be conducted.

(B) It shall be lawful for motion pictures, lectures, concerts and theatrical or vaudeville performances to be held on the Lord's Day in the city, but only during such hours as allowed by state law, provided a business license has been issued. Such entertainment may be regulated by licensing or otherwise, as the Board of Mayor and Aldermen may deem best.

(C) It shall be lawful to serve meals; to operate duly licensed barbershops, beauty shops, or other hair dressing establishments; to furnish supplies, services, and repairs required by automotive apparatus; to sell, in addition to the articles permitted to be sold by R.S.A. Ch. 332-D:2, fresh fruit, confectionery, ice cream, soft drinks, tobacco in its various forms, flowers, newspapers and periodicals on the Lord's Day within the city provided however that a business license has been issued.

(D) It shall be lawful to operate any general merchandise establishment, including but not limited to real estate sales, automobile sales, or coin-operated laundromats on the Lord's Day within the city and to permit the advertisement therefor provided however that a business license has been issued.

(E) It shall be lawful to permit the operation of any vendor/peddler, who holds all licenses required

by the city, and permit the operation of any duly licensed and bonded auctioneer on the Lord's Day within the city, and to permit the advertisement therefor provided that a business license has been issued.

(F) It shall be unlawful to engage in any of the permitted operations on the Lord's Day within the city unless a business license as provided for under this title has been issued by the City Clerk.

(Ord. passed 8-2-66; Am. Ord. passed 12-18-73; Am. Ord. passed 12-30-74; Am. Ord. passed 10-7-81; Am. Ord. passed 10-4-83; Am. Ord. passed 6-19-84; Am. Ord. passed 3-19-85; Am. Ord. passed 12-17-85; Am. Ord. passed 4-4-89; Am. Ord. passed 10-10-92; Am. Ord. passed 3-7-95) Penalty, see § 110.99

§ 110.06 EVIDENCE OF LIABILITY FOR SECURING LICENSE.

Any person registered as a business with the Secretary of State of New Hampshire, or who shall hold himself out to the public as being engaged in a business and who is required to file for a business license, shall be liable for obtaining a business license under this title. Representing himself as being engaged in a business for the transaction of which requires a business license or displaying a sign, business card, or advertisement indicating the conduct of such business in the telephone directory, city directory or other media shall be evidence that such person is holding himself out to the public as being engaged in a business, regardless of whether any business transaction occurs.

(Ord. passed 3-7-95)

§ 110.07 SEPARATE LICENSE FOR EACH PREMISE.

A separate business license shall be obtained and a separate licensing fee paid for each branch establishment or separate place of business in which any business is commenced or conducted. Each license shall authorize the licensee named therein to commence and conduct only that business described in such license and only at the location or place of business indicated therein. Any person who operates a separately-owned department or concession in a department store or a building structure or enclosure in which separate departments or concessions are operated shall pay a license fee in accordance with the provisions of this title for the department or concession so operated by him, except in such case where the lessor secures the business license for the square footage of the leased department.

(Ord. passed 3-7-95)

§ 110.08 EXEMPTIONS.

(A) Vehicles used by any person licensed under this title for the sale and delivery of tangible personal property at either wholesale or retail from his place of business on which a business license is paid shall not be construed to be separate places of business, and no license may be levied on such vehicles or the operators thereof as salespersons.

(B) Casual activity or sales by minors or by persons who may or may not be licensed under the provisions of this title shall not be construed to be engaged in a business activity and no license may be levied on such persons for such activity.

(C) A local nonprofit corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, when no part of the entity's earnings benefit any private shareholder or individual and when the entity does not hold title to real estate within the city, shall be issued an "exempt license," for which a payment of a fee is not required, upon compliance with the provisions of this chapter. Provided, however, that an "exempt license" shall not be issued for activities or devices regulated under §§ 111.40 through 111.55.

(Ord. passed 3-7-95; Am. Ord. passed 10-1-96)

§ 110.09 LOCATION OF LICENSEE; ZONING REGULATION.

Each application for a business license shall definitely state and set out the exact location at which the business shall be operated. Before issuance of a license, verification of applicable zoning will be made. If the applicable zoning regulations do not permit the practice of such business, the license will be denied.

(Ord. passed 3-7-95)

Cross-reference:

Central Business Service Districts, see Ch. 37

LICENSE RESTRICTIONS

§ 110.20 BUSINESS LICENSE FEES.

(A) A person licensed under this title shall pay the fee prescribed, based on the gross square feet of area occupied by the business seeking such license as follows: For the first 1,500 square feet or fraction thereof, \$50; plus \$2 per 100 square feet or fraction thereof over 1,500 square feet, except that the maximum fee for any license shall be \$1,000.

(B) The applicant for a license shall provide the City Clerk with the floor area from which the fee shall be computed and both the floor area and fee shall be indicated on the license. Misrepresentation of any information required to obtain a license shall be cause for revocation of the license without refund and a new business license must be applied for and issued for the business activity to be permitted.

(C) *Exceptions and minimum fees.* Persons outlined in this division shall not be required to pay fees pursuant to division (A) of this section, but shall, however, be licensed and/or pay fees as licensed herein:

(1) Persons licensed to conduct a circus, carnival, or other form of amusement or entertainment pursuant to Chapter 111 of this title shall pay a business license fee, for the use of the city, of

\$300. A license to conduct such activity in a hall shall be \$50.

(2) Persons licensed as performers and exhibitors pursuant to §§ 111.80 and 111.81 of this title shall pay a business license fee of \$10 for each day such person shall perform or exhibit. A license to conduct such activity in a hall not licensed under this title shall be \$50. Any person who is employed by a sponsor or an establishment which holds a valid business license under this title shall not be required to obtain a license.

(3) Persons licensed for dances or as dance halls or entertainment places of assembly Class I pursuant to § 111.66(A) or (B) of this title shall pay a business license fee of \$15 per day plus any applicable police officer's fee and meet the conditions set forth therein. In lieu of the per day fee, such person may obtain an annual license for such activity based on the fee structure as outlined in division (A) of this section. Persons holding a valid business license for restaurant, dance, and entertainment under § 111.66(C) of this title shall be liable for any applicable police officer's fee and meet the conditions set forth therein. Persons licensed for entertainment places of assembly Class II shall pay a business license fee of \$100 per day plus any applicable police officer's fee and meet the conditions set forth therein. Class II licensees are not eligible for issuance of an annual license.

(4) Persons licensed as transient or itinerant magazine salesmen pursuant to § 115.20 or as transient or itinerant photographers pursuant to § 115.30 shall pay a business license fee of \$5 for each day, or \$25 for one week, or \$150 for one year and meet the conditions therein.

(5) Persons licensed as peddlers pursuant to §§ 115.40 through 115.44 of this title shall pay an annual business license fee of \$150, cash, money order, or bank check, or \$25, cash, money order, or bank check for atemporary license, and meet the conditions set therein. Persons licensed as civic center peddlers pursuant to §§ 115.50 through 115.53 of this title shall pay an annual business license fee of \$400, cash, money order, or bank check, or \$75, cash, money order, or bank check for a temporary license, and meet the conditions set therein.

(6) Persons licensed to conduct a fair pursuant to § 115.60 of this title shall pay a business license fee of \$300 for the first day and \$50 for each additional day and meet the conditions set therein.

(Ord. passed 3-7-95; Am. Ord. passed 6-4-96; Am. Ord. passed 11-7-01)

§ 110.21 PRORATION OF INITIAL ANNUAL LICENSE FEES.

Licensees whose initial application for a business license is received by the City Clerk after May 1 of the year, or who renews a license in effect during the calendar year following enactment of this title shall be subject to all annual license fees on a proration schedule as follows:

<i>Business Start Date</i>	<i>Applicable Licensing Rate</i>
May 1 - July 31	100%
August 1 - October 31	75%
November 1 - January 31	50%
February 1 - April 30	25%

(Ord. passed 3-7-95)

§ 110.22 DELINQUENCY AND CANCELLATION.

(A) Any person required to obtain a business license as provided pursuant to this title who fails to obtain or renew the appropriate license on or before the date as specified herein shall be considered delinquent and subject to a delinquency penalty of 10% for the first 30 days of delinquency plus an additional 10% for the next 30 days.

(B) The City Clerk shall be authorized to cancel the business license of any inactive licensee if the business has neither filed a license renewal nor remitted to the city the license fee imposed by this title for a period of 60 days. The nonlicensed status may be removed by payment of an annual license fee in the amount of 150% of the annual business license fee imposed under § 110.20(A) of this subchapter.

(C) No business license for any succeeding, current, or unexpired license period shall knowingly be issued to any person who at the time of making application or renewal thereof is indebted to the city for any unpaid municipal permit or fee.

(Ord. passed 3-7-95) Penalty, see § 110.99

§ 110.23 TRANSFER OF LICENSE.

(A) Unless otherwise provided, business licenses may be transferred to a new owner when there is a bona fide sale of the business. In order to transfer a business license, the new owner must fill out a new application, including with his application proof of bona fide sale, payment of a transfer fee of \$25, together with any additional fees or information required due to the transfer.

(B) Business licenses may be transferred to a new location. In order to transfer an existing license to a new location, the owner must complete a new application and meet the same requirements as a new applicant. The new application shall also include payment of a transfer fee of \$25, together with any additional fees or information required due to the transfer.

(Ord. passed 3-20-01)

§ 110.24 REBATE OF LICENSE FEES.

No portion of any business license fee paid pursuant to this title shall be rebated, unless it clearly appears that such fee was collected by, or calculated by mistake or error, and before making such rebate of such fees, all amounts due and payable under proper fees and permits are deducted from the amount previously paid or are paid by the licensee.

(Ord. passed 3-7-95)

§ 110.25 APPLICATION FOR LICENSE.

Applications for a business license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

- (A) The name, home address, home phone number, business address and business phone number of the applicant.
- (B) Trade name under which the applicant proposes to do business.
- (C) A description of the business activity the applicant will be engaged in.
- (D) When requested by the City Clerk, a certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state.
- (E) If applicable, the square footage of the business location.
- (F) Any other information that may be requested for licensing purposes or for reasons of public health or safety by other municipal departments including, but not limited to, health, building, zoning, police, or fire.
- (G) Any other information reasonably required by the Board of Mayor and Aldermen or Committee on Administration to the extent necessary and appropriate for licensing a business activity.
- (H) Any other information that may be required under an application process outlined elsewhere in this title for specific business activity.

(Ord. passed 3-7-95)

§ 110.26 COMPLIANCE WITH TITLE; REVOCATION OF LICENSE.

- (A) No license shall be issued or granted to any applicant to engage in the business of selling or disposing of any merchandise of any kind as retail or wholesale or the practice or pursuit of any profession or occupation in this city, except upon terms and conditions subject to the provisions of this title.
- (B) Notwithstanding other provisions of this title, licenses issued under this title may be revoked by the City Clerk after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation, or false statement contained in the application for license.
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the business.
 - (3) Any violation of this title.
 - (4) Any violation of applicable municipal building, zoning, health, police and fire rules,

regulations, and ordinances, and applicable statutes, rules and regulations of the state.

- (5) Any violation of a restriction or condition placed on the license.
- (6) The business or activity creates a nuisance as defined by § 110.02 (C).
- (7) The operation of the business or activity endangers the public health, welfare or safety.

(Ord. passed 3-7-95; Am. Ord. passed 2-4-97; Am. Ord. passed 7-1-97) Penalty, see § 110.99

§ 110.27 HEARING.

(A) Upon receipt of notification of denial of, or pending suspension or revocation of, a business license, or for the issuance of new or revised conditions or restrictions on the licensee from the office of the City Clerk, the applicant or licensee may request, in writing, a hearing before the Committee on Administration of the Board of Mayor and Aldermen. The request must be made within ten days of the date of notice. The Committee on Administration shall set a hearing date, notifying the applicant or licensee of said hearing date. The hearing will be held at the earliest possible date and the matter shall be decided within a reasonable time. The applicant or licensee will be notified of the decision of the Committee, and the decision by the Committee to deny, restrict, suspend, or revoke a business license shall be final.

(B) A license that has been revoked shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon after the expiration of at least one year from the date of revocation.

(C) Licenses revoked pursuant to § 110.26(B)(7) may be revoked immediately and prior to the hearing process provided by § 110.27(A) where the danger to public health, welfare and/or safety is immediate.

(Ord. passed 3-7-95; Am. Ord. passed 2-4-97; Am. Ord. passed 7-1-97; Am. Ord. passed 10-7-97)

§ 110.28 ENFORCEMENT.

The Chief of Police shall have and exercise the power to issue citations for the violation of any of the provisions of this title and to enter public access areas of a business, free of charge, during hours of public access or operation and at any time a license is required by this title, and to demand the exhibition of the license for the current term by any person engaged or employed in the transaction of such business. If the person fails then and there to exhibit the license, the person shall be liable to the penalties provided for as a violation of this title.

(Ord. passed 3-7-95) Penalty, see § 110.99

§ 110.99 PENALTY.

Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The city may enjoin or abate any violation of this title by appropriate action. In addition to the penalty set forth in § 10.99 of the code of ordinances, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs.

(Ord. passed 3-7-95)

CHAPTER 111: AMUSEMENTS

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GENERAL LICENSING PROVISIONS

§ 111.01 LICENSE AND APPLICATION.

(A) *License required.* It shall be unlawful for any person, firm or corporation to conduct a circus, carnival, or other form of amusement or entertainment in any place within the city without first having secured a license therefor.

(B) *Application.* Application for a license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

- (1) The name, home and business address, and telephone number of the applicant and operator of the event.
- (2) A description of the general purpose of the activity.
- (3) A description of the location of the activity.

- (4) A license from the City Health Department for any person who will sell any food or beverages.
- (5) Dates and hours of operation of the activity.
- (6) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$1,000,000 minimum limit; such policy shall provide for automobile liability insurance for owned, non-owned, and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except within 30 days' advance written notice to the city.

(Ord. passed 3-7-95) Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20

§ 111.02 LICENSE PREREQUISITES.

A license to conduct any circus, carnival, or other form of amusement or entertainment in any place where 100 or more persons may assemble, other than approved established places of assembly, shall not be granted unless the premises are approved by the Fire, Police, and Building Departments, and the applicant provides such fire and police protection as are deemed necessary by the Chiefs of the Fire and Police Departments.

(Ord. passed 3-7-95)

§ 111.03 REVOCATION OF LICENSE.

For the violation of any of the provisions of this division by the licensee of a circus, carnival, or other form of amusement or entertainment, the licensing authority may immediately revoke the license.

(Ord. passed 3-7-95)

GENERAL REGULATIONS

§ 111.15 OVERCROWDING OF PREMISES PROHIBITED.

In any place where a circus, carnival, or other form of amusement or entertainment is conducted, overcrowding of the premises shall be prohibited.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.16 REQUIREMENTS FOR FIXED SEATS.

In any place where a circus, carnival, or other form of amusement or entertainment is conducted, the seats that are fixed and firmly secured therein shall be placed not less than 32 inches apart, back to back, measured horizontally. Rows with an opening into an aisle at both ends shall contain not more than 14 seats, while rows opening into an aisle at one end only shall contain not more than seven seats.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.17 REQUIREMENTS FOR MOVABLE SEATS.

In any place where a circus, carnival, or other form of amusement or entertainment is conducted, the movable seats therein shall not be placed less than 32 inches apart, back to back, measured horizontally; and each row, if provided with an opening into an aisle at both ends, shall contain not more than nine seats, while each row opening into an aisle at one end only, shall contain not more five seats.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.18 REQUIREMENTS FOR AISLES.

In any place where a circus, carnival, or other form of amusement or entertainment is conducted, aisles having seats on both sides shall be not less than four feet wide; and where there are 30 or more transverse rows of seats, cross aisles, not less than four feet in width, shall be provided 16 rows apart which shall extend through each side of the center section of seats or from center aisles and extend to the side aisles or exits.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.19 EXIT SPECIFICATIONS.

All exits in places where any circus, carnival, or other form of amusement or entertainment is conducted shall open directly to outside areas and shall be kept open and unobstructed at all times and shall be clearly indicated by red lights and signs. The width of exits shall be proportioned on the basis of not less than 22 inches in width for each 100 persons or each major portion thereof, but no exit shall be less than five feet in width. The total length of travel from any point to an exit shall not exceed 150 feet, provided, however, that there shall be no intervening enclosed passageway, corridor or tunnel if the travel distance to any exit exceeds 100 feet. Stairways shall not be less than 44 inches wide in the clear.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.20 CANVAS TO BE FLAME-PROOF.

No circus, carnival, or other form of amusement or entertainment shall be held under canvas, unless a certificate certifying that the canvas has been flame-proofed is furnished by the applicant. The Fire Department may require tests to be made to determine the fire resistive qualities of materials.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.21 SMOKING PROHIBITED.

Smoking shall be prohibited in any place where a circus, carnival, or other form of amusement or entertainment is conducted.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.22 FIRE ALARMS REQUIRED.

Proper facilities for summoning the Fire Department shall be provided in any place where a circus, carnival, or other form of amusement or entertainment is conducted, and all members assigned to this detail advised as to the procedure in carrying out this assignment.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.23 ELECTRIC WIRING REQUIREMENTS.

Electric wiring in any place where a circus, carnival, or other form of amusement or entertainment is conducted, shall be in accordance with the applicable provisions of the National Electric Code.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.24 RESTRICTIONS ON HEATING OR COOKING DEVICES.

Gasoline, gas, charcoal, or other heating or cooking devices shall not be stored or be permitted to operate in or near the main enclosure of a circus, carnival, or other form of amusement or entertainment.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.25 REMOVAL OF COMBUSTIBLE TRASH REQUIRED.

In any place where a circus, carnival, or other form of amusement or entertainment is conducted, all unnecessary hay, straw, dry grass, and combustible trash shall be removed from the enclosure before it is opened to the public.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.26 RESTRICTIONS ON ACTS USING FIRE.

If the use of fire or open flames is required in any act or exhibition of a circus, carnival, or other form of amusement or entertainment, suitable safeguards shall be provided, otherwise their use shall be prohibited.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.27 GROUNDS ON STOPPING PERFORMANCE.

For violation of any of the provisions of this chapter, the Chief of the Fire Department or the Chief of the Police Department or any of their authorized deputies may refuse to permit the performance to continue.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.28 MINOR TO BE ACCOMPANIED BY ADULT.

It shall be unlawful for any person to admit a child under the age of 14 years to any circus, carnival, or other form of amusement or entertainment required by law to be licensed, after sunset, or before sunset during the hours that the public schools are in session, unless he is accompanied by a person of the age of 21 years or over; or to permit any such child to remain in the show or place of amusement after the person in charge is informed or has reason to believe that the child is under said age and is unaccompanied by a person as above required.

(Ord. passed 3-7-95) Penalty, see § 111.99

AMUSEMENT DEVICES

§ 111.40 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT DEVICE. Any non-coin operated machine or machine which, upon deposit for credit with a person, or upon the insertion of a slug, token, plate, disc, coin, or any other form of currency may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include, but not be limited to such devices as electronic video machines, electronic video poker machines, pinball machines, skill ball, photography devices, fortune-telling machines, mechanical grab machines, shooting gallery, movie or video devices, coin-operated rides, and all games, operations or transactions similar thereto under whatever name they may be designated or described.

AMUSEMENT DEVICE VENDOR. Any person, firm, corporation or association in which is engaged in the business of selling, leasing, renting, or serving as an agent for the sale, lease, or rental of any amusement device.

ARCADE. For the purposes of this division shall mean any place of business or establishment containing six or more amusement devices.

PERSON. Any person, firm, corporation or association which owns any amusement device; the person, firm, corporation or association in whose place of business any amusement device is placed for use by the public; or the person, firm, corporation or association having control over an amusement device.

(Ord. passed 3-7-95; Am. Ord. passed 6-4-96)

§ 111.41 LICENSE EXCEPTIONS.

The provisions of this subchapter shall not apply to radios of any type in hotels or other public places for the convenience of their guests or customers, telephones, or to fax machines, copiers, or other types of coin-operated office equipment, or to food, drink, merchandise vending, or similar nonamusement devices.

(Ord. passed 3-7-95)

§ 111.42 LOCATION OF AMUSEMENT DEVICES.

All amusement devices shall be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used and are not to be obstructed in any way by curtains, doors, partitions, or other types of screening devices.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.43 OPERATION BY MINORS PROHIBITED; EXCEPTIONS.

(A) No person shall permit persons under 16 years-of-age to play or operate any amusement device

as defined in § 111.40 of this subchapter; provided, however, that the provisions of this section do not apply to persons under 16 years-of-age accompanied by his or her parent, guardian, or other suitable adult person having care or custody of said person.

(B) No person shall permit persons under 16 years-of-age unless accompanied by a parent or guardian to enter any place in which an amusement device licensed under this subchapter is kept between the hours of 8:00 a.m. and 2:30 p.m. on days in which public schools are in session. This division shall only apply to any place in which the primary business is the operation of amusement devices.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.44 AMUSEMENT DEVICE VENDOR LICENSE AND FEES.

No amusement device vendor shall provide any such device to any arcade, business, or establishment in the city, except for private use, unless a business license for that purpose is obtained from the City Clerk. The form of application and license shall be determined by the City Clerk.

(A) Each license issued under this section shall commence on the date of issue and shall expire on April 30 next following its issuance and may be renewed only after compliance with the procedures established by this subchapter.

(B) The application shall list:

(1) The name and residence of the applicant; and if a firm, corporation, partnership, or association, the principal officers thereof and their addresses.

(2) The address of the licensee's principal place of business.

(3) A general description of the various types of devices to be provided, sold, leased, or rented to any arcade, business, or establishment in the city.

(4) If the applicant has a fixed place of business within the city, the fee shall be as provided for under § 110.20 of this title.

(5) If the applicant does not have a fixed place of business within the city, the fee shall be \$100 annually.

(C) Each duly licensed amusement device vendor whose principal place of business is located within the city shall be required to keep a log which shall contain not less than the following information: the names and addresses of all arcades, businesses, and establishments that purchased amusement devices from the licensee during the 12 months prior to the date of the license application and/or renewal and a description of each of the machines placed with those establishments, and the names and addresses of all arcades, businesses and establishments that have leased, rented, or otherwise used amusement devices owned by the licensee during the 12 months prior to the date of the license application and/or renewal and a description of each of the machines placed within those establishments. The log may be updated by the amusement device vendor during the licensed period and shall be made available, upon request, for review by any law enforcement agency or by the office of the City Clerk. A duly licensed amusement device vendor whose principal place of business is not

located within the city shall provide such list to the City Clerk at the time of license application and/or renewal and shall again provide the office of the City Clerk a current listing six months from the date of said application and/or renewal.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.45 AMUSEMENT DEVICE LICENSE AND FEES.

(A) No person, firm, corporation or association shall display for public patronage, maintain on the premises, or keep for operation, any amusement device, operable or inoperable, without first having obtained a proper license from the City Clerk. The form of application and license shall be determined by the City Clerk. All licenses under this section shall expire on the April 30 next following their issuance and are to be renewed within the procedures established by this subchapter.

(B) Any application or renewal for an amusement device license shall be accompanied by a statement setting forth the following:

- (1) Name and residence of owner of the device.
- (2) Name and residence of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof, and their addresses.
- (3) Address and current use of premises where the licensed device or devices are to be operated.
- (4) A general description of each type of device or devices to be licensed and the deposit or fee charged for a single game, use or play for each device.
- (5) The maximum number of amusement devices to be on the premises during the license period.

(C) Any person applying for an initial amusement device license or renewing an amusement device license shall, prior to receipt of same, pay a license fee for each device used, played, or exhibited for use or play in accordance with the schedule set herein:

- (1) For each so-called “slot” machine that, by application of the element of chance, may deliver, or entitle the person playing or operating the machine to receive premiums or tokens; or an amusement device that displays a poker hand or delivers a ticket with a poker hand symbolized on it that may entitle the player to a prize if the poker hand displayed by the machine or symbolized on the ticket constitutes a winning hand; or an amusement device that, even though it does not dispense prizes or tokens, has the features and characteristics of a gaming device that upon insertion of multiple coins changes the format and/or outcome of the game, the license fee is \$1,500.
- (2) For each children's amusement device, pinball machine, concession game, basketball device, or skeeball machine, the license fee is \$25; and
- (3) For all other amusement devices, the license fee is \$50.

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(D) The applicant may substitute and “rotate” devices without an additional fee provided the maximum number of amusement devices recorded on the license application or renewal is not exceeded and the substituted device requires the same license fee, or less, required of the device it replaced. If additional devices or devices requiring an increased license fee are to be installed during the license period, the licensee must obtain licensure prior to installation and pay the additional and appropriate license fee for the device.

(E) No fee or portion thereof shall be refunded in the event a lesser number of machines are maintained than applied for during the license period.

(F) Each license issued for an amusement device shall bear the name of the owner of the device, the total number of devices licensed to the licensee at that address, and shall be posted in a conspicuous manner, as determined by the City Clerk, where it is clearly visible to the general public and/or patrons of the premises where such devices are maintained throughout the license period. The City Clerk may require such other additional license identification on individual amusement devices as he may deem appropriate.

(Ord. passed 3-7-95; Am. Ord. passed 4-6-99) Penalty, see § 111.99

§ 111.45.1 [RESERVED].

(Previous section repealed 2-17-98)

§ 111.46 ARCADES.

(A) Every person desiring to obtain a license for an arcade shall file a license application with the City Clerk on forms to be determined by the City Clerk, together with an application fee of \$300. The application fee shall be the fee for the initial license. The license shall expire on April 30 next following its issuance and the applicant shall annually on or before May 1, obtain a new arcade license from the City Clerk and pay a business license fee of \$300.

(1) The application shall include the following:

- (a) The applicant's name, residence, occupation and date of birth;
- (b) A complete criminal record of the applicant obtained from the Criminal Records Division, Department of Safety, State of New Hampshire, and/or from the appropriate out-of-state agency or agencies if the applicant has been a resident of another state prior to establishing residence in New Hampshire;
- (c) The location of premises to be used; and
- (d) A scale drawing of the premises showing proposed or actual locations of the amusement devices.

(2) In the case when the applicant is a corporation authorized to do business in this state, the application shall be made by the agent of such corporation who will have principal charge of the premises, and such application shall contain all the information of such agent as is required of individuals. In case the

applicant is a partnership, each active partner shall join in the application for such license, and shall furnish all of the information required of an individual.

(3) In the event there is any change in management, the agent or the proprietor during the term of the license, the City Clerk shall immediately be notified. This notification shall contain the same information required on an application for license and shall be subject to investigation by the office of the City Clerk, the Chief of Police or his designee.

(B) No applicant for an arcade license shall be issued a license for a location within 1,000 feet of any hospital, nursing home, day care center, private educational institution, public educational institution, or group home. Distance shall be measured from front door to front door.

(C) Prior to any arcade license being issued, the premises may be inspected by the appropriate departments of the city to ensure that the premises are in compliance with all applicable statutes, ordinances, codes, and regulations of the state and the city. The license shall not be unreasonably withheld.

(D) A license issued for an arcade shall be conspicuously posted and maintained in a place where it is clearly visible to the general public and/or patrons of the premises where the amusement devices are in operation through the license period.

(E) (1) When it is determined after investigation by the Chief of Police to be necessary to protect the health, safety, and welfare of the citizens the city, each arcade shall be required to hire an off-duty police officer during the hours of 8:00 p.m. to closing.

(2) Each arcade that is required to hire an off-duty police officer may, after six months of such requirement, request the Chief of Police to determine the necessity of such requirement. The Chief of Police may suspend the requirement after investigation as he deems appropriate. This requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.47 NUISANCE.

(A) If the Chief of Police, or his duly appointed representative, upon investigation has reason to believe that any premises containing amusement devices licensed under this subchapter is a public nuisance, the person so licensed shall be ordered to appear before the Committee on Administration of the Board of Mayor and Aldermen within 30 days of written notice by certified mail specifying the nature of the charge. If it is determined that a public nuisance does exist, the Committee on Administration may revoke the licenses.

(B) The meaning of public nuisance shall include but not be limited to the following:

- (1) Nuisance as defined in R.S.A. 544:1;
- (2) Common nuisance as defined in R.S.A. 318-B:16;
- (3) Repeated violations of law which are against the interest of the public health, safety, and welfare.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.48 PRIZES PROHIBITED.

No person shall be awarded or receive any monetary prize in connection with the use of an amusement device.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.49 GAMBLING DEVICES PROHIBITED.

Nothing in this subchapter shall in any way be construed to authorize, license, or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the state.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.50 SEIZURE AND DESTRUCTION OF GAMBLING DEVICES.

If the Chief of Police shall have reason to believe any amusement device is used as a gambling device, such machine may be seized by the police and impounded and if, upon trial, a person allowing the operation of such device is found guilty of allowing the same to be used as a gambling device, such machine shall be destroyed by the police, without compensation to the owner.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.51 ADDITIONAL PROHIBITED PRACTICES.

(A) The operation, installation, or maintenance of an unlicensed amusement device or arcade, or the operation or maintenance of amusement devices or arcades without having the appropriate licenses posted in an area clearly visible to the public, is a separate violation each day such operation continues.

(B) Any knowing misrepresentation in a license application or renewal is a violation which shall be punishable, after hearing as provided for in § 111.55, by revocation of the license.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.52 CONDITIONS AND RESTRICTIONS.

(A) Upon the recommendation of the City Clerk, Chief of Police, Health Officer, or Building Commissioner or their designee, an initial license shall be subject to such conditions and restrictions as the Committee on Administration deems to proper to impose when such conditions or restrictions would serve the public safety, convenience, or character of the area. The license shall not be unreasonably withheld.

(B) Licenses granted under this subchapter shall remain the property of the city and are to be returned to the office of the City Clerk during a period of suspension, after revocation, or if the person, firm, corporation, or association holding the arcade or amusement device licenses ceases to operate.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.53 TRANSFER OF LICENSE.

A license shall not be transferable from person to person and shall be useable only at the place and by the person designated on the license, except as provided for in § 111.45(D) of this subchapter.

(Ord. passed 3-20-01) Penalty, see § 111.99

§ 111.54 SUSPENSION OR REVOCATION.

(A) A violation of any section or division of this subchapter will result in a warning letter from the office of the City Clerk, outlining the violation, being sent to the location at which the violation occurred, using the name and address or other information which may be available from the records of the licensee on file with the City Clerk. A citation issued by any city department or official charged with the responsibility for enforcing the ordinances and codes of the city shall also serve as a notice of violation within this subchapter.

(B) The Committee on Administration of the Board of Mayor and Aldermen shall have the responsibility for the suspension or revocation of licenses for noncompliance with this subchapter. Suspension or revocation of amusement devices or arcade licensing shall be based on the following guidelines:

(1) A second violation will result in the licenses to display for public patronage or keep for operation any mechanical amusement device, and/or to operate an arcade, being suspended for a period of up to 60 days.

(2) A third violation will result in a suspension of the license for an indefinite period of time, or the revocation of the license. The Committee on Administration may revoke the licenses after three or more violations of the provisions of this subchapter.

(3) If aggrieved, the licensee may request, in writing, a hearing before the Committee on Administration of the Board of Mayor and Aldermen. The request must be made within ten days of notice of suspension or revocation.

(4) The Committee on Administration shall set a hearing date, notifying the licensee of the hearing date. The hearing will be held at the earliest possible date and the matter shall be decided within a

reasonable time. The licensee will be notified of the decision of the Committee.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.55 ENFORCEMENT.

Each person holding a license under this subchapter shall allow the Police Department or a designee of the office of the City Clerk to enter, during hours of operation, any arcade or mechanical amusement business for the purpose of making inspections to ensure compliance with this subchapter. Such inspection shall include an examination of required records, licenses, amusement device meters, and/or any amusement devices.

(Ord. passed 3-7-95) Penalty, see § 111.99

DANCES; DANCE HALLS; ASSEMBLY

§ 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANCE HALL. Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

ENTERTAINMENT PLACE OF ASSEMBLY. A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

(Ord. passed 1-17-95; Am. Ord. passed 3-7-95; Am. Ord. passed 11-7-01)

§ 111.66 LICENSE REQUIRED.

(A) No person shall own or operate a dance hall or entertainment place of assembly within the city unless a license shall first be obtained from the City Clerk.

(B) No person shall conduct or allow to be conducted any entertainment or public dancing which is

an isolated or occasional event, and which is not part of the regular and recurrent business activity of the owner or operator of the room or space within the city unless a license shall first be obtained from the City Clerk.

(C) (1) Notwithstanding any other licensing ordinance, a duly licensed Class I and Class II restaurant in the city may allow dancing and entertainment upon obtaining an annual restaurant dance and entertainment license from the city.

(2) The application for a restaurant dance and entertainment license shall be made to the City Clerk upon forms to be determined by the City Clerk, the licensee shall be liable for any applicable police officer's fee and the license shall expire annually on April 30.

(Ord. passed 1-17-95; Am. Ord. passed 3-7-95) Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20

§ 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

(Ord. passed 1-17-95; Am. Ord. passed 3-7-95)

§ 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities.

(Ord. passed 1-17-95; Am. Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.

(Ord. passed 1-17-95; Am. Ord. passed 3-7-95) Penalty, see § 111.99

§ 111.70 CURFEW AT DANCES.

(A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(Ord. passed 9-4-01) Penalty, see § 111.99

§ 111.71 CURFEW FOR ENTERTAINMENT.

(A) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday, except as may be permitted by the Committee on Administration.

(B) The Committee on Administration may approve applications for Entertainment Licenses if applications meet the criteria listed below. The criteria are as follows:

(1) The location of the event shall not substantially impact a residential zone or district by excessive noise, traffic or other negative impact;

(2) The proposed event shall not be more than two consecutive calendar days in length;

(3) The sponsors, applicants, or management of the event are of sufficiently good character to leave no substantial doubt that the proposed event shall be operated in strict accordance with all state or municipal rules, regulations, ordinances or statutes which are rationally related to the issuance of this license; and

(4) The event must be held in accordance with all applicable municipal building, zoning, health, police, and fire rules, regulations and ordinances and applicable rules, regulations, and statutes of the State of New Hampshire.

(Ord. passed 3-5-02) Penalty, see § 111.99

PERFORMERS AND EXHIBITORS

§ 111.80 LICENSE REQUIRED.

No showman, tumbler, rope-dancer, ventriloquist, juggler, or other person shall for pay exhibit any feats of agility, horsemanship, sleight-of-hand, rope-dancing, or feats of cards, or any animals, wax figures, puppets, or other show, or shall perform or exhibit any theatrical or dramatic representation or other exhibition, performance, or show of any kind or description in the city, unless a license therefor in writing, specifying the day and hour such person is allowed to perform or exhibit, shall first be obtained from the office of the City Clerk; provided, however, that any person who is employed by a licensed conductor of a circus, carnival, or other form of amusement or entertainment or who is employed by a sponsor or an establishment which holds a valid business license under this chapter, shall not be required to obtain a license.

(Ord. passed 3-7-95) Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20

§ 111.81 TERMS AND CONDITIONS OF LICENSE.

Any license issued pursuant to this subchapter shall be subject to such terms and conditions as the office of the City Clerk shall order and require.

(Ord. passed 3-7-95) Penalty, see § 111.99

MUSIC SYSTEMS AND POOL TABLES

§ 111.90 LICENSE REQUIRED.

(A) No person shall establish or operate a coin-operated musical reproducing instrument or coin box governing the reproducing of musical selections by centralized music systems, in any business establishment or building in the city unless a license therefor has been obtained from the City Clerk.

(B) No person shall keep a billiard table or pool table in the city, except for private use, unless a license therefor in writing, specifying the place in which it is to be kept, shall first be obtained from the City Clerk.

(Ord. passed 2-15-55; Am. Ord. passed 9-4-96)

§ 111.91 LICENSE FEES.

Each person, prior to issuance of a license to operate a coin-operated music system or keeping a billiard or pool table in the city as provided for in this division, shall pay the license fee in accordance with the fee schedule as follows:

(A) For each coin-operated music system, the license fee is \$50; and

(B) For each coin-operated or non-coin operated billiard table or pool table, the license fee is \$25.

(Ord. passed 2-15-55; Am. Ord. passed 3-1-83; Am. Ord. passed 4-4-89; Am. Ord. passed 6-4-96)

§ 111.99 PENALTY.

(A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.

(B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through 111.55 of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through 111.55 shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the Police Department as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(Ord. passed 3-7-95)

CHAPTER 112: EMPLOYMENT OFFICES

Section

112.01 License required

112.02 Information contained on license

112.03 Consent required for transfer of license to other building

§ 112.01 LICENSE REQUIRED.

No person shall establish within the city an intelligence office for the purpose of obtaining or giving information concerning places of employment for servants or other laborers, or for the purpose of procuring or giving information concerning such person for or to employers, or for the purpose of giving information concerning employment in business, unless a license therefor has been granted by the office of the City Clerk.

(Ord. passed 3-7-95) Penalty, see § 10.99

§ 112.02 INFORMATION CONTAINED ON LICENSE.

Licenses granted to keepers of intelligence offices shall set forth the name of the person licensed, the nature of the business and the building in which it is carried on and prescribe the rates to be charged.

(Ord. passed 3-7-95)

§ 112.03 CONSENT REQUIRED FOR TRANSFER OF LICENSE TO OTHER BUILDING.

No license issued to a keeper of an intelligence office shall be valid in a building or place other than that designated in the license, unless consent to removal is granted by the office of the City Clerk.

(Ord. passed 3-7-95) Penalty, see § 10.99

CHAPTER 113: FUEL WOOD AND CHRISTMAS TREES

Section

- 113.01 License required
- 113.02 Prerequisites for issuing license
- 113.03 Issuance of certificate upon sale; filing
- 113.04 Surrender of certificate; exchange
- 113.05 Exemptions

§ 113.01 LICENSE REQUIRED.

No person shall engage in the business of selling Christmas trees or wreaths or any type or grade of wood for fuel purposes in the city unless a business license has been issued by the City Clerk.

(Ord. passed 3-7-95; Am. Ord. passed 6-4-96) Penalty, see § 10.99

§ 113.02 PREREQUISITES FOR ISSUING LICENSE.

Any applicant for a license to engage in the business of selling wood for fuel purposes shall submit to the City Clerk a signed statement acknowledging that said applicant will comply with all provisions of law governing such sales including any standards or regulations issued by the New Hampshire Department of Agriculture, Bureau of Weights and Measures.

(Ord. passed 3-7-95; Am. Ord. passed 6-4-96)

§ 113.03 ISSUANCE OF CERTIFICATE UPON SALE; FILING.

(A) Whenever any type or grade of wood is sold for fuel purposes, except edgings and kindling sold in bags and having the net contents printed thereon, the dealer or seller shall issue a certificate in duplicate, wherein shall be stated: the name and address of both the purchaser and the dealer or seller, and the quantity of wood delivered, in terms of cords, loads, baskets, or cubic feet.

(B) One copy of the certificate shall be furnished the purchaser, his agent, or representative, when the wood is delivered by the dealer, or seller, or called for by the purchaser at the dealer or seller's place of business; the remaining certificate shall be filed by the dealer or seller.

(Ord. passed 3-7-95)

§ 113.04 SURRENDER OF CERTIFICATE; EXCHANGE.

The dealer or seller of any type or grade of wood that is sold for fuel purposes, except edgings and kindling sold in bags and having the net contents thereon, shall surrender either his certificate or the purchasers', or both certificates, to the sealer of weights and measurers at any time or place upon his demand for inspection; and the sealer shall issue in exchange for each certificate thus surrendered, his certificate of quantity, which shall be delivered to the purchaser, his agent, or representative, or filed by the dealer, or seller, in lieu of whichever certificate is surrendered.

(Ord. passed 3-7-95) Penalty, see § 111.99

§ 113.05 EXEMPTIONS.

The fee for a Christmas tree or wreath license for a nonprofit corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes when no part of the entity's earnings benefit any private shareholder or individual, shall be waived by

the City Clerk at the time an application is submitted.

(Ord. passed 6-4-96)

CHAPTER 114: SECONDHAND AND JUNK DEALERS

Section

- 114.01 License required; application, fee, and revocation
- 114.02 Purchases from minors
- 114.03 Records and inspections
- 114.04 Exclusions

§ 114.01 LICENSE REQUIRED; APPLICATION, FEE, AND REVOCATION.

(A) No person, firm, or corporation shall engage in the business of junk dealers, junk collector, or secondhand dealer/antique dealer, auctioneer, or auction house as defined by § 110.01 of this title unless licensed therefor by the City Clerk.

(B) Applications for such licenses shall be made to the City Clerk, upon blanks furnished by him for that purpose and shall be submitted by him to the Chief of Police who may cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer, junk collector, or secondhand dealer/antique dealer, auctioneer, or auction house, and report his findings to the City Clerk before such license is acted upon and the following fee shall be paid to the City Clerk:

(1) If the applicant has a fixed place of business within the city, the fee shall be as provided for under § 110.20 of this title.

(2) If the applicant does not have a fixed place of business within the city, the fee shall be \$50 per annum.

(C) Such license shall expire on April 30 each year, unless sooner revoked, and shall neither be assigned nor transferred, but it may be revoked at any time by the Committee on Administration after notice and hearing for just cause. No junk collector shall call out, or shout any words to indicate his business in any street, lane, or alley within the city limits. No rags or junk of any kind or description shall be sorted within the sanitary limits of the city, by any person, firm, or corporation, without first securing a permit from the Board of Health of the city.

(Ord. passed 3-7-95) Penalty, see § 10.99

Cross-reference:

Business license fees, see § 110.20

§ 114.02 PURCHASES FROM MINORS.

No junk dealer, junk collector, or secondhand dealer/antique dealer, auctioneer, or auction house shall directly or indirectly, either purchase or receive by way of barter or exchange, any of the articles aforesaid, of a minor, under the age of 18 years, knowing or having reason to believe him to be such; except when the minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person before the dealer or collector.

(Ord. passed 3-7-95) Penalty, see § 10.99

§ 114.03 RECORDS AND INSPECTIONS.

(A) Every pawnshop, secondhand dealer/antique dealer, auctioneer, or auction house, upon the acquisition of any article enumerated in § 110.01 of this title, shall prepare duplicate transaction records, blanks for which shall be furnished by the Police Department, detailing the proven identity of the seller including his name, date of birth, address, type of identification and identification number if there is one. If the identity of the seller cannot be proven, no transaction may occur. The record shall also contain the month, day, and year when the transaction occurred as well as a full, accurate, and detailed description of each article purchased including brand name and serial number, if any, with the price paid therefor, and cause the record to be signed by the seller in person. A copy of the record shall be forwarded to the Police Department as soon as possible, but no later than 72 hours after completion of the transaction. The dealer shall retain a copy of the record at his local place of business for one year from the date of transaction which, along with any article therein listed, may be inspected by any duly authorized police officer. No article so purchased shall be sold, changed, altered in its appearance or otherwise within seven days after the purchase thereof, except with the written consent of the Chief of Police, but in no case within 48 hours after the purchase. Every pawnshop, secondhand dealer/antique dealer, auctioneer, or auction house, upon file sale of a secondhand article enumerated in § 110.01 of this title, shall prepare and maintain at his local place of business, a record of the sale detailing the proven identity of the buyer including his name, date of birth, address, and type of identification. The record shall also contain a description of the article sold including brand name and serial number, if any, and the price paid therefor. The record shall be available at the local place of business for inspection by any duly authorized police officer.

(B) Every junk dealer, upon the acquisition of any item enumerated in § 110.01 of this title, shall prepare and maintain at his local place of business, a record of such transaction detailing the proven identity of the seller including his name, date of birth, address, and type of identification used. The record shall also include a full, accurate, and detailed description of the item, including brand name and serial number, if any, including price paid therefor, as well as the day, month, and year when the transaction occurred. The record shall be available at the local place of business for inspection by any authorized police officer for one year from the date of transaction.

(Ord. passed 3-7-95) Penalty, see § 10.99

§ 114.04 EXCLUSIONS.

Specifically excluded from the provisions of this chapter are the following:

- (A) Purchases from private residences by citizens not engaged in a secondhand dealer type business.
- (B) Transactions between secondhand dealers/ antique dealers, auctioneers, or auction houses.

(Ord. passed 3-7-95)

CHAPTER 115: SOLICITATIONS, SALES, PEDDLERS, AND FAIRS

Section

General Provisions

- 115.01 Definitions
- 115.02 Submission of fees

Solicitation for Charities

- 115.10 Permit required
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Transient or Itinerant Magazine Sales

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Transient or Itinerant Photographers

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Peddlers

- 115.40 License required; application
- 115.41 Application and license fee
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- 115.44 Prohibited conduct
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Civic Center Peddlers

- 115.50 License required; application
- 115.51 Application and license fee

- 115.52 Placement and issuance
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Fairs

- 115.60 License required; application
- 115.61 Prohibited conduct
- 115.62 Revocation of fair license
- 115.63 Peddler's license not required

GENERAL PROVISIONS

§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIVIC CENTER ZONE. The westerly side of Elm Street, on the sidewalk, from Pleasant Street to the Center of NH exit and the easterly side of Elm Street, on the sidewalk, from Central Street to Merrimack Street. The westerly side of the zone includes a 30-foot setback from the corner of Elm Street and the Center of NH exit, northerly, and a 90-foot setback from the corner of Elm Street and Pleasant Street, southerly. This prevents impairing driver vision (in accordance with § 8.22(E) of the Zoning Ordinance) as well as interfering with Manchester transit loading and unloading. The easterly side of the zone also includes a 30-foot setback from the corner of Elm Street and Central Street, northerly, and a 90-foot setback from the corner of Elm Street and Merrimack Street, southerly. The Office of the City Clerk shall not issue more than a pre-determined number of licenses designated for the Civic Center Zone. The Office of the City Clerk may use discretion as to the total number of licenses issued for the Civic Center Zone should it be determined that this amount disrupts pedestrian traffic patterns, vehicular traffic flow, or reasonable peddler activity.

FAIR. A show in which ten or more persons display merchandise, articles, services, or things for sale or solicit orders and as a separate transaction deliveries are made to purchasers, from a booth, stand, rack, showcase, bench, push-cart or a designated area.

ITINERANT MAGAZINE SALESMAN. Any person, whether as principal, agent, or employee, who engages in a temporary or transient business in this city of traveling from house to house soliciting orders for magazine subscriptions or renewals.

MOTOR VEHICLE. Any vehicle, used for displaying, storing, or transporting of articles offered for sale by a peddler, which is required to be licensed and registered by the State Department of Motor Vehicles.

PEDDLER. A person as defined in R.S.A. 320.1 and R.S.A. 321.1, except as may be excluded by § 110.08 of this title, and shall include any person, whether a resident of the city or not, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, flowers,

plants, garden truck, farm products or provisions, offering and exposing the same for sale from a wagon, stand, motor vehicle, railroad car, or other vehicle or conveyance, and includes one who while traveling from place to place solicits orders and as a separate transaction deliveries are made to purchasers. The word **PEDDLER** shall include one who travels from place to place offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or one who keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise. The word **PEDDLER** shall include **HAWKER**, **VENDOR**, **HUCKSTER**, and **ITINERANT VENDOR**. The word **PEDDLER** shall not include those persons who are on residential premises at the prior invitation of the owner or legal occupant or direct sellers as defined by Sec. 3508 of the U.S. Internal Revenue Code.

PUBLIC ASSEMBLY BUILDINGS. As defined in the BOCA National Building Code, 1987, Article 3, §§ 302.1 through 302.6.

PUBLIC PROPERTY. Any city-owned or controlled property including but not limited to streets, sidewalks, municipal parking areas, and municipal parks.

STAND. Any table, showcase, bench, rack, pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor vehicle and which is not required to be licensed and registered by the State Department of Motor Vehicles, used for displaying, storing, or transporting articles offered by sale by a peddler.

TRANSIENT or ITINERANT PHOTO- GRAPHERS. All persons, whether as principals, agents, or employees, who engage in a temporary or transient business in this city, whether such persons conduct their business by traveling from house to house taking pictures in a house, or operate from a hotel room, store, or other place of business, or otherwise, and who perform any of the following acts of the photography business: solicit orders, take pictures, assist in the taking of pictures, show proofs, deliver pictures, make collections for pictures sold.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01)

§ 115.02 SUBMISSION OF FEES.

Fees for permits, applications, and licenses shall be submitted with the applications under this chapter and shall be considered nonrefundable.

(Ord. passed 3-7-95)

SOLICITATION FOR CHARITIES

§ 115.10 PERMIT REQUIRED.

(A) No person shall solicit financial aid or assistance from the public offering in return therefor any emblem, tag, flower or like symbol; solicit funds for charitable purpose; or sell tags, flowers, or other objects for charitable purposes unless a permit for such activity is obtained from the office of the City Clerk.

(B) Tag day permits shall be issued only to organizations which have a principal location in the city, shall be for a two-day period only, and shall be issued only twice a year to each organization unless further issuance is permitted by the Committee on Administration of the Board of Mayor and Aldermen.

(C) Applications for permits under this section shall be made to the City Clerk upon a form to be determined by the City Clerk.

(Ord. passed 3-7-95) Penalty, see § 10.99

§ 115.11 RAFFLE PERMIT REQUIRED.

(A) The authority for the issuance of raffle permits granted under R.S.A. 287-A to the Mayor and Aldermen is hereby delegated to the City Clerk.

(B) No person, organization, corporation, or other entity shall conduct a raffle in the city without having first obtained a permit from the City Clerk.

(C) All raffle permits shall be issued by the City Clerk in accordance with the provisions of R.S.A. 287-A, as it is now written or may hereafter be amended.

(D) Applications for raffle permits shall be submitted to the City Clerk on forms to be determined by the City Clerk.

(Ord. passed 3-7-95) Penalty, see § 10.99

TRANSIENT OR ITINERANT MAGAZINE SALES

§ 115.20 LICENSING REQUIREMENTS.

(A) *License required.* No person shall engage in the business of an itinerant magazine salesperson unless he shall be licensed to do so as provided by this section. The City Clerk may issue a temporary license for a transient or itinerant magazine salesperson, following the same procedure as for the issuance of all annual licenses.

(B) *License application; issuance; transfer; display.*

(1) Each applicant for an itinerant magazine salesperson's license shall apply to the City Clerk on a form to be determined by the City Clerk.

(2) The application shall include the name and home address; the name and address of all organizations by which he is employed or receives commissions or compensation of any kind; and whether he has ever before applied for a license under this section.

(3) Upon verification of identity, review of application by Police Department, and receipt of the proper fee the City Clerk may issue the license and forward the name of the licensee to the Chief of Police. The license shall not be transferable and must be presented to any party being solicited for magazine orders or to any police officer upon request.

(C) *Hours, behavior restricted.* No person shall engage in the business of an itinerant magazine salesperson except between the hours of 9:00 a.m. and 8:00 p.m. No person shall make any solicitation in an oppressive manner.

(D) *Revocation.* Any person violating any provisions of this section shall have such license revoked. Upon request of the Chief of Police the licensee shall surrender his license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years.

(E) *Exemptions.* This section shall not apply to persons involved in elementary and secondary schools conducting such solicitations under the direction and guidance of a local school or other charitable organization.

(Ord. passed 3-7-95) Penalty, see § 10.99

TRANSIENT OR ITINERANT PHOTOGRAPHERS

§ 115.30 LICENSING REQUIREMENTS.

(A) *License required.* No person shall engage in the business of a transient or itinerant photographer unless he shall be licensed to do so as provided by this section. The City Clerk may issue a temporary license for transient or itinerant photographer, following the same procedure as for the issuance of an annual license.

(B) *License application; issuance; transfer; display.*

(1) Each applicant for a transient or itinerant photographer license shall apply to the City Clerk on a form to be determined by the City Clerk.

(2) The application shall include the name and home address; the name and address of all organizations by which he is employed or receives commissions or compensation of any kind; and whether he has ever before applied for a license under this section.

(3) Upon verification of identity, review of application by Police Department, and receipt of the proper fee the City Clerk may issue the license and forward the name of the licensee to the Chief of Police. The license shall not be transferable and must be conspicuously displayed.

(C) *Hours, behavior restricted.* No person shall engage in the business of a transient or itinerant photographer, except between the hours of 9:00 a.m. and 8:00 p.m. No person shall make any solicitation in an oppressive manner.

(D) *Revocation.* Any person violating any provisions of this section shall have his license revoked. Upon request of the Chief of Police, the licensee shall surrender such license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years.

(E) *Exemptions.* This section shall not apply to transient or itinerant photographers providing photographic services to public or private schools, organizations, or corporations.

(Ord. passed 3-7-95) Penalty, see § 10.99

Cross-reference:

Business license fees, see § 110.20

PEDDLERS

§ 115.40 LICENSE REQUIRED; APPLICATION.

(A) It shall be unlawful for any person, firm, or corporation to engage in the business of a peddler within the city without first having secured a license therefor. The license shall be an annual license expiring on April 30 of each year. Each license issued pursuant to this subchapter shall be conspicuously displayed. The City Clerk may issue a temporary license for peddlers, following the same procedure as for the issuance of an annual license.

(B) Application for a peddler's license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1) The name, home and business address of the applicant, and the name and the address of the owner, if other than the applicant, of the business and of any stand or motor vehicle to be used in the operation of the business.

(2) A description of the type of food, beverage, merchandise, or service to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.

(3) A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.

(4) A license from the City Health Department for any peddler who will sell any food or beverages.

(5) (a) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in

connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$500,000 minimum limit; such policy shall provide for automobile liability insurance for owned, nonowned and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days' advance written notice to the city.

(b) Exceptions to certificates of insurance may be considered on a case by case basis by the City Clerk with consultation of the risk manager to modify guidelines to meet the exposures presented in a specific activity.

(6) A description of the proposed location of the business together with the written permission of the abutting landowner and/or tenant and a certificate from the building department that a location is consistent with the Zoning Ordinance. The abutter's written permission for use of a location shall be kept current and submitted at the beginning of each licensing year. If the location is in or adjacent to a public area with no private abutting landowner and/or tenant, an applicant must obtain written permission from the appropriate municipal department or public agency. Authorization to operate at that location may be subject to conditions requested by the municipal department or public agency at the time approval is granted or at any time during the licensing period. Peddlers who have been licensed during the licensing year immediately preceding an application for a specific location shall be given first consideration for licensure at that location provided all other requirements under this division are met and that the license is applied for prior to June 1 of the license year. After June 1, the City Clerk may issue a license for the location to the first applicant who requests that site and who meets the licensing requirements.

(7) Peddlers from motor vehicles shall describe, if less than the entire city, the general area in which the business will be operated.

(8) Hours of operation.

(9) Whether or not the applicant has previously held a peddler's license.

(10) Proof that the applicant holds a hawker, peddler, or itinerant vendor's license from the state where applicable.

(Ord. passed 3-7-95; Am. Ord. passed 9-5-95; Am. Ord. passed 6-4-96; Am. Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.41 APPLICATION AND LICENSE FEE.

Each application for annual license shall be submitted with a fee of \$150, cash, money order, or bank check. Each application for a temporary license shall be submitted with a fee of \$25, cash, money order, or bank check. The fee for the initial license shall be the application fee.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01)

Cross-reference:

Business license fees, see § 110.20

§ 115.42 EXEMPTIONS.

The provisions of this subchapter shall not apply to the following:

(A) Sales made to dealers by commercial travelers or selling agents.

(B) Any nonprofit corporation, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes when no part of the entity's earnings benefit any private shareholder or individual unless such person is selling food or beverages from a motor vehicle or stand for immediate consumption.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01)

Cross-reference:

Exemption for person displaying merchandise at a licensed fair, see § 115.63

§ 115.43 TRAFFIC REGULATIONS.

Peddling from a motor vehicle is subject to any and all restrictions contained in the traffic regulations of the city except that peddling from a motor vehicle is prohibited where parking is controlled by parking meters.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.44 PROHIBITED CONDUCT.

A peddler shall not:

(A) Operate his business on any street, sidewalk, park, parkway or in any other public place unless his peddler's license specifies that peddling in such public place is permitted thereunder.

(B) Vend within 500 feet of the grounds of any elementary or secondary school between one-half hour prior to the start of the school and one-half hour after dismissal at the end of the school day.

(C) Vend within 1,000 feet of any hospital.

(D) Vend within 1,000 feet of the same street of any public assembly building while such building is in use unless his peddler's license specifies that peddling in such place is permitted thereunder.

(E) Leave any motor vehicle or stand unattended.

(F) Store, park, or leave any stand overnight on any street or sidewalk or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.

(G) Sell food or beverages for immediate consumption unless he has available for public use his own

or a public litter receptacle which is available for his patron's use.

(H) Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made by him.

(I) Allow any items relating to the operation of the business to be placed anywhere other than in, on, or under the stand or motor vehicle.

(J) Set up, maintain, or permit the use of any table, crate, carton, rack, sign, or any other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described on his application.

(K) Solicit or conduct business with persons in motor vehicles.

(L) Sell any other than that which he is licensed to vend.

(M) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.

(N) Operate without the insurance coverage specified in this subchapter.

(O) Sell food or beverages without a valid and current Health Department permit to operate a food establishment.

(P) Vend without a fire extinguisher of a type approved by the Fire Chief or his designee if the vendor utilizes heat generation equipment.

(Q) Operate at any time other than the hours of 9:00 a.m. to 8:00 p.m. unless part of a special permitted activity or the license so specifies.

(R) Vend within 50 feet of any building or storefront housing a business selling the same or similar food, merchandise, or product except during special one-day events or while such business is closed.

(S) Vend in the area around the Civic Center bounded by Pine Street from the corners of Manchester Street and Valley Street, Valley Street from the corners of Pine Street and Elm Street, Elm Street from the corners of Valley Street and West Auburn Street, West Auburn Street from the corners of Elm Street and Canal Street, Canal Street from the corners of West Auburn Street and Market Street, Market Street from the corners of Canal Street and Franklin Street, Franklin Street from the corners of Market Street and West Merrimack Street, West Merrimack Street from the corners of Franklin Street and Elm Street, Elm Street from the corners of West Merrimack Street and Manchester Street, Manchester Street from the corners of Elm Street and Pine Street, unless the applicant proposes to vend items adjacent to a business they currently own within this area, part of a special permitted activity or the license so specifies.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.45 FRAUD; REVOCATION OF LICENSE.

(A) Any licensed peddler who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee, while acting as peddler in the city, or who shall sell any goods, merchandise, service, or wares other than those specified in the application for a license shall be deemed guilty of a violation of this subchapter.

(B) Any person violating any provisions of this subchapter shall have his license revoked. Upon request of the City Clerk the licensee shall surrender his license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years unless permission is granted by the Committee on Administration.

(C) Any peddler having his license revoked may request in writing reconsideration by the Committee on Administration.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.46 TEMPORARY SUSPENSION FOR STREET CLOSINGS.

An official temporary encumbrance or closure of a street or sidewalk by the city for purposes of maintenance or reconstruction shall cause the suspension of all licenses to operate thereon.

(Ord. passed 3-7-95; Am. Ord. passed 11-7-01)

CIVIC CENTER PEDDLERS

§ 115.50 LICENSE REQUIRED; APPLICATION.

(A) It shall be unlawful for any person, firm, or corporation to engage in the business of a Civic Center peddler within the city without first having secured a license therefor. The license shall be an annual license expiring on April 30 of each year. Each license issued pursuant to this subchapter shall be conspicuously displayed. The City Clerk may issue a temporary license for peddlers, following the same procedure as for the issuance of an annual license.

(B) Application for a peddler's license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1) The name, home and business address of the applicant, and the name and the address of the owner, if other than the applicant, of the business and of any stand or motor vehicle to be used in the operation of the business.

(2) A description of the type of food, beverage, merchandise, or service to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.

(3) A description and photograph of any stand to be used in the operation of the business.

(4) A license from the City Health Department for any peddler who will sell any food or beverages.

(5) (a) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$500,000 minimum limit; such policy shall provide for automobile liability insurance for owned, non-owned, and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days advance written notice to the city.

(b) Exceptions to certificates of insurance may be considered on a case by case basis by the City Clerk with consultation of the risk manager to modify guidelines to meet the exposures presented in a specific activity.

(6) Authorization to operate within the Civic Center Zone may be subject to conditions requested by a municipal department or public agency at the time approval is granted or at any time during the licensing period. Peddlers who have been licensed during the licensing year immediately preceding an application for a specific location shall be given first consideration for licensure at that location provided all other requirements under this division are met and that the license is applied for prior to June 1 of the license year. After June 1, the City Clerk may issue a license for the location to the first applicant who requests that site and who meets the licensing requirements.

(7) Hours of operation.

(8) Whether or not the applicant has previously held a peddler's license.

(9) Proof that the applicant holds a hawker, peddler, or itinerant vendor's license from the state where applicable.

(Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.51 APPLICATION AND LICENSE FEE.

Each application for annual Civic Center peddler license shall be submitted with a fee of \$400, cash, money order, or bank check. Each application for a temporary license shall be submitted with a fee of \$75, cash, money order, or bank check. The fee for the initial license shall be the application fee.

(Ord. passed 11-7-01)

Cross-reference:

Business license fees, see § 110.20

§ 115.52 PLACEMENT AND ISSUANCE.

Civic Center peddlers will be allotted placement upon the sidewalk, not to exceed a ten square foot area.

Peddlers will be placed on the westerly portion of the Civic Center Zone until all spots are issued before placement is granted for the portion of the zone. The Office of the City Clerk shall determine the total number of licenses issued for the Civic Center Zone during a given licensing period. Licenses are granted on a first come first serve basis. Only two annual peddler licenses for the Civic Center Zone may be issued to the same person in a single license year.

(Ord. passed 11-7-01)

Cross-reference:

Civic Center Zone defined, see § 115.01

§ 115.53 PROHIBITED CONDUCT.

A peddler shall not:

- (A) Leave any stand unattended.
- (B) Store, park, or leave any stand overnight on any street or sidewalk, park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
- (C) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patron's use.
- (D) Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made by him.
- (E) Allow any items relating to the operation of the business to be placed anywhere other than in, on, or under the stand or motor vehicle.
- (F) Set up, maintain, or permit the use of any table, crate, carton, rack, sign, or any other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described on his application.
- (G) Solicit or conduct business with persons in motor vehicles.
- (H) Sell any item other than that which he is licensed to vend.
- (I) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.
- (J) Operate without the insurance coverage specified in this subchapter.
- (K) Sell food or beverages without a valid and current Health Department permit to operate a food establishment.
- (L) Vend without a fire extinguisher of a type approved by the Fire Chief or his designee if the vendor utilizes heat generation equipment.
- (M) Operate at any time other than the hours of 9:00 a.m. to 12:00 a.m. unless part of a special

permitted activity or the license so specifies.

(Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.54 FRAUD; REVOCATION OF LICENSE.

(A) Any licensed peddler who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee, while acting as peddler in the city, or who shall sell any goods, merchandise, service, or wares other than those specified in the application for a license shall be deemed guilty of a violation of this subchapter.

(B) Any person violating any provisions of this subchapter shall have his license revoked. Upon request of the City Clerk the licensee shall surrender his license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years unless permission is granted by the Committee on Administration.

(C) Any peddler having his license revoked may request in writing reconsideration by the Committee on Administration.

(Ord. passed 11-7-01) Penalty, see § 10.99

§ 115.55 TEMPORARY SUSPENSION FOR STREET CLOSINGS.

An official temporary encumbrance or closure of a street or sidewalk by the city for purposes of maintenance or reconstruction shall cause the suspension of all licenses to operate thereon.

(Ord. passed 11-7-01)

FAIRS

§ 115.60 LICENSE REQUIRED; APPLICATION.

(A) It shall be unlawful for any person, firm, or corporation to promote a fair in which any merchandise, article, or thing is displayed for sale by peddlers/vendors without first having secured a license therefor.

(B) Application for a fair license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

- (1) The name, home and business address, and telephone number of the applicant.
- (2) A description of the general purpose of the fair or activities of the fair.

- (3) A description of the location of the fair.
- (4) A license from the City Health Department for any person who will sell any food or beverages.
- (5) Hours of operation of the fair.
- (6) A list of all persons who shall be allowed to display any merchandise, article, or thing at the fair.
- (7) (a) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$500,000 minimum limit; such policy shall provide for automobile liability insurance for owned, nonowned, and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days' advance written notice to the city.
- (b) Exceptions to certificates of insurance may be considered on a case by case basis by the City Clerk with consultation of the risk manager to modify guidelines to meet the exposures presented in a specific activity.

(Ord. passed 3-7-95; Am. Ord. passed 9-5-95) Penalty, see § 10.99

Cross-reference:

Business license fees, see § 110.20

§ 115.61 PROHIBITED CONDUCT.

A holder of a fair license shall not:

- (A) Allow the sale of any food or beverages without first having obtained the necessary permit from the City Health Department.
- (B) Allow any person to display any merchandise, article, or thing for sale without first having obtained any and all required licenses from the state.
- (C) Allow the sale of any food or beverages for immediate consumption in an outdoor area without having available for public use adequate litter receptacles available for patron use.

(Ord. passed 3-7-95) Penalty, see § 10.99

§ 115.62 REVOCATION OF FAIR LICENSE.

In addition to any penalty imposed, the Committee on Administration of the Board of Mayor and Aldermen may revoke such fair license for any violations of this subchapter or of any city ordinance or state

statute pertaining to the conduct of such business.

(Ord. passed 3-7-95)

§ 115.63 PEDDLER'S LICENSE NOT REQUIRED.

Any authorized person displaying merchandise, articles, or things at a duly licensed fair shall not be required to hold a separate peddler's license.

(Ord. passed 3-7-95)

CHAPTER 116: [RESERVED]

(Previous chapter repealed on 1-19-99)

CHAPTER 117: FOOD SERVICE ESTABLISHMENTS

Section

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Health and sanitation, see Ch. 91

Statutory reference:

Authority of city to regulate food and food establishments, see R.S.A. 47:17(IV)

Sanitary production and distribution of food, see R.S.A. Ch. 143

GENERAL PROVISIONS

§ 117.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FOOD-SERVICE ESTABLISHMENT. Any fixed or mobile restaurant; cafeteria; coffee shop; cocktail lounge; catering kitchen; sidewalk cafe; commissary; grille, luncheonette; short-order cafe; sandwich shop; soda fountain; tea-room; drive-in; nightclub; roadside stand; industrial feeding establishment; private, public, or nonprofit organization or institution serving the public; or similar place in which food or drink is prepared for sale for food service on the premises or elsewhere; and any other eating or drinking establishment where food is served or provided for the public with or without charge. A ***FOOD-SERVICE ESTABLISHMENT*** also means a grocery store; meat market; bakery or any establishment where food is stored, manufactured, and/or processed, or packaged.

HEALTH AUTHORITY. The Health Officer of the city or his designated representatives.

SANITARY FOOD CODE. The New Hampshire Rules for the Sanitary Production and Distribution of Food, part He-P 2301, He-P 2303 through He-P 2326, He-P 2329, and He-P 2331.

('71 Code, § 10-1) (Ord. passed 6-5-79; Am. Ord. passed 6-2-87; Am. Ord. passed 9-4-01)

§ 117.02 APPROVAL OF PLANS REQUIRED FOR BUILDING PERMIT.

When a food-service establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food-service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangement, and construction materials of work areas, and the location, size, and type of fixed equipment and facilities shall be submitted to the Health Authority for approval before such work is begun. No building permit shall be issued by the Building Inspector until such approval has been given by the Health Authority.

('71 Code, § 10-2) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 117.03 SALES OF FOOD BY FIRMS OUTSIDE CITY.

Food from food-service establishments outside the jurisdiction of the Health Authority of the city may be sold within the city if such food-service establishments conform to the provisions of this chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities in other jurisdictions where such food-service establishments are located.

('71 Code, § 10-3) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

PERMITS AND INSPECTIONS

§ 117.15 PERMIT REQUIRED.

It shall be unlawful for any person who does not possess a valid permit issued to him by the Health Authority to operate a food-service establishment within the city or in a police jurisdiction.

('71 Code, § 10-14) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01) Penalty, see § 10.99

Statutory reference:

Authority of city to enter restaurants for inspection, see R.S.A. 47:17 (IV)

§ 117.16 COMPLIANCE WITH CHAPTER REQUIRED FOR PERMIT.

Only a person who complies with the requirements of this chapter shall be entitled to receive and retain a permit issued to him by the Health Authority.

('71 Code, § 10-15) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.17 APPLICATION.

Any person desiring to operate a food-service establishment shall make written application for a permit on a form provided by the Health Authority.

('71 Code, § 10-16) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.18 ISSUANCE OF PERMIT.

Upon receipt of an application and the designated license fee, and after inspection reveals that the applicable requirements of this subchapter have been met, a permit shall be issued to the applicant by the Health Authority.

('71 Code, § 10-17) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.19 PERMIT FEE.

The fee for any permit application pursuant to this subchapter shall be in accordance with the following schedule:

<i>Class</i>	<i>Description of Establishment</i>	<i>Fee</i>
Class I	Food-service establishments having a seating capacity of 100 persons or greater; supermarkets	\$330
Class I-A	Supermarket with bulk foods, salad bar, and/or food buffet	400
Class II	Food-service establishments having a seating capacity of greater than 25 but less than 100 persons; bakeries; warehouses; distributors; nursing homes; canteen commissaries, markets with less than two prep areas	265
Class III-A	Markets selling only prepackaged food products; mobile food operations; federally-inspected food processors; food service operations having a seating capacity of 25 persons or less; child day care facilities; liquor lounges; bars	165
Class III-B	Clubs incorporated under the laws of the State or which are affiliated with any national fraternal organization for the same members and bona fide guests of liquor by the glass only	80
Class IV	Temporary food-service establishments:	
Class IV-A	Locally based food establishment with current Health Department permit	40
Class IV-B	Establishments which do not possess a current Health Department permit or are located outside of the jurisdiction of the Manchester Health Department	80
Class V	Non-profit organizations not holding a liquor permit and not serving meals on a daily basis; public and parochial schools and institutions and governmental facilities	No fee

('71 Code, § 10-18) (Ord. passed 6-5-79; Am. Ord. passed 6-19-84; Am. Ord. passed 6-2-87; Am. Ord. passed

6-5-90; Am. Ord. passed 6-4-96; Am. Ord. passed 9-4-01)

§ 117.20 EXPIRATION AND RENEWAL OF PERMIT.

Except as otherwise stipulated in this chapter, any permit issued pursuant to this section shall be valid for a one-year period and shall expire on the last day of the month in which it was first issued. There shall be a \$10 late application fee for any permit renewal application received more than ten days after its expiration.

('71 Code, § 10-19) (Ord. passed 4-15-69; Am. Ord. passed 6-19-84; Am. Ord. passed 6-2-87; Am. Ord. passed 9-4-01)

§ 117.21 PERMIT FOR TEMPORARY ESTABLISHMENT.

Any permits for temporary food-service establishments shall be issued for a period of time not to exceed 14 days.

('71 Code, § 10-20) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.22 PERMIT TO BE POSTED.

Any permit issued pursuant to this chapter shall be posted in every food-service establishment. Mobile caterers, canteen trucks, and other readily moveable food establishments shall be clearly identified by establishment name and permit number plainly displayed on at least two sides of the vehicle.

('71 Code, § 10-21) (Ord. passed 4-15-69; Am. Ord. passed 6-19-84) Penalty, see § 10.99

§ 117.23 TRANSFER OF PERMIT PROHIBITED.

Any permit issued pursuant to this chapter shall not be transferable from one person to another person; or from one place to another place; or from one vehicle to another vehicle.

('71 Code, § 10-22) (Ord. passed 4-15-69; Am. Ord. passed 6-2-87; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 117.24 SUSPENSION OF PERMIT; REINSTATEMENT.

(A) Any permit issued pursuant to this subchapter may be suspended by the Health Authority for failure of the holder to comply with the requirements of this chapter.

(B) Whenever a permit holder or operator has failed to comply with any notice under the provisions of this chapter, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Health Authority by the permit holder.

(C) Notwithstanding the other provisions of this chapter, whenever the Health Authority finds unsanitary or other conditions in the operation of a food-service establishment which, in his judgment, constitute a substantial hazard to the public health, he may issue a written notice to the permit holder or operator citing such condition, the corrective action to be taken, and specifying the time period within which such action shall be taken. If it is deemed necessary, the Health Officer may order that the permit be immediately suspended and all food-service operations will be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Authority, shall be afforded a hearing as soon as possible.

(D) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit accompanied by a reinspection fee which shall be equal to cost of the annual permit. Within five days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the Health Authority shall make a reinspection. If the applicant is complying with the requirements of this chapter, the permit shall be reinstated.

('71 Code, § 10-23) (Ord. passed 4-15-69; Am. Ord. passed 3-1-83; Am. Ord. passed 9-4-01)

§ 117.25 REVOCATION OF PERMIT.

For serious or repeated violations of any of the requirements of this chapter, or for interference with the Health Authority in the performance of his duties, any permit issued pursuant to this subchapter may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Prior to such action, the Health Authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five days following service of such notice, unless a request for a hearing is filed with the Health Authority, by the permit holder, within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

('71 Code, § 10-24) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 117.26 HEARINGS FOR SUSPENSION OR REVOCATION.

The hearings provided for in §§ 117.24 and 117.25 shall be conducted by the Board of Health at a time and place designated by it. Based upon the record of such hearing, the Board of Health shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Board of Health.

('71 Code, § 10-25) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.27 INSPECTION REQUIRED.

At least once every six months, the Health Authority shall inspect each food-service establishment located in the city, or its police jurisdiction, and shall make as many additional inspections and reinspections as are necessary for the enforcement of this chapter. To assist the Health Department in making inspections, mobile caterers, canteen trucks, and other readily moveable food establishments shall submit accurate route schedules identifying location and time of stops. Non-mobile food service establishments shall submit normal days and times of operation on forms provided by the Health Authority.

('71 Code, § 10-26) (Ord. passed 4-15-69; Am. Ord. passed 6-19-84; Am. Ord. passed 9-4-01)

§ 117.28 ACCESS; EXAMINATION OF RECORDS.

The Health Authority, after proper identification, shall be permitted to enter, at any reasonable time, any food-service establishment within the city, or its police jurisdiction, for the purpose of making inspections to determine compliance with this chapter. He shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received, or used, and persons employed.

('71 Code, § 10-27) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 117.29 REPORT; RATING SCORE.

Whenever the Health Authority makes an inspection of a food-service establishment, he shall record his findings on an inspection report form provided for this purpose, and shall furnish the original of such inspection report form to the permit holder or person in charge at the conclusion of the inspection. Such form shall summarize the requirements of the New Hampshire Rules for the Sanitary Production and Distribution of Food and shall set forth a weighted point value for each requirement. Inspection remarks shall be written to reference, by section number, and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations subtracted from 100. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

('71 Code, § 10-28) (Ord. passed 6-5-79; Am. Ord. passed 9-4-01)

§ 117.30 CORRECTION OF VIOLATIONS.

- (A) The completed inspection report form shall specify a reasonable period of time for the correction

of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(1) If an imminent health hazard exists, such as lack of hot water, loss of power, fire, flood, complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations and notify the Health Authority. Operations shall not be resumed until authorized by the Health Authority.

(2) All violations of four- or five-point weighted items shall be corrected as soon as possible, but in any event, within ten days following inspection. A follow-up inspection shall be conducted to confirm correction.

(3) All one- or two-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(4) When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

(5) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the Health Authority.

(B) The inspection report shall state that failure to comply with any time limits for corrections may result in suspension of the permit to operate. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the regulatory authority within ten days following cessation of operation. If a request for a hearing is received, a hearing shall be held within 20 days of receipt of that request.

(C) Whenever a food-service establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

('71 Code, § 10-29) (Ord. passed 6-5-79; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 117.31 SERVICE OF NOTICE.

All notices provided for under § 117.30 shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Health Authority.

('71 Code, § 10-30) (Ord. passed 4-15-69; Am. Ord. passed 9-4-01)

§ 117.32 PROCEDURE WHEN INFECTION IS SUSPECTED.

When the Health Authority has reasonable cause to suspect possible disease transmission by an employee of a food-service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The Health Authority may require any or all of the following measures:

- (A) The immediate exclusion of the employee from employment in all food-service establishments.
- (B) The immediate closing of the food-service establishment concerned until, in the opinion of the Health Authority, no further danger of disease outbreak exists.
- (C) Restriction of the employee's service to some area of the establishment where there would be no danger of transmitting disease.
- (D) Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges. ('71 Code, § 10-31) (Ord. passed 6-5-79)

CHAPTER 118: VEHICLES FOR HIRE

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GENERAL PROVISIONS

§ 118.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISQUALIFYING CRIMINAL CONVICTION.

Any felony convictions, any conviction involving a controlled substance or violence, theft, or endangering the welfare of a child or incompetent.

DISQUALIFYING MOTOR VEHICLE CONVICTIONS. Certification as a habitual offender by the Division of Motor Vehicles of the Department of Safety, conviction for operating after certification as a habitual offender, reckless driving, disobeying an officer, and/or driving while under the influence of drugs or liquor, aggravated driving while intoxicated, or similar out-of-state offenses.

INDEPENDENT CONTRACTOR. Any person, firm, corporation, or association registered as a business with the Secretary of State, State of New Hampshire, and who enters into a contract, lease, or agreement with a taxicab business to provide service or benefit to that taxicab business. The definition of ***INDEPENDENT CONTRACTOR*** shall include the definitions and protections as provided for under R.S.A. 275, Payment of Wages; R.S.A. 275-E, Whistleblowers' Protection Act; and R.S.A. 281-A, Workers'

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Compensation Law; all rules, regulations, standards and interpretations as set forth by the New Hampshire Department of Labor; and all applicable rulings by the court system of the state.

MEDALLION. A single metal plate issued by the City Clerk to identify that the motor vehicle is a taxicab licensed to operate in the city of Manchester.

REVOCATION. The permanent loss of a license to operate a taxicab business or drive a taxicab in the city.

SUSPENSION. The temporary loss of a license to operate a taxicab business or drive a taxicab in the city.

TAXICAB. Any motor vehicle, having a manufacturers rated capacity of not more than seven passengers, used in the call and demand transportation of passengers from within the limits of the city to a destination inside or outside of the city, for compensation to or from points chosen or designated by the passengers and not operated on a fixed schedule, between fixed termini, or any such vehicle leased or rented, or held for leasing or renting, with or without driver or operator. This definition shall not include: a motor vehicle subject to regulation by the Public Utilities Commission of the state; sightseeing buses or limousines designed to carry eight persons or more from a fixed place to places of interest about the city; or motor vehicles collecting fares by tickets or coupons sold for interstate transportation.

TAXICAB BUSINESS or TAXICAB COMPANY. Any person, firm, corporation, or association engaged in the business of transporting passengers in a taxicab from one destination to another for a fee. A taxicab company may provide its own dispatching service or lease such service. A taxicab company may lease its vehicles to independent contractors and/or employ its own drivers.

TAXICAB DISPATCH COMPANY. Any person, firm, corporation, or association engaged in the business of providing dispatch service for taxicabs for the purpose of transporting passengers from one destination to another for a fee.

TAXICAB DRIVER. Any individual who shall drive a taxicab.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00)

LICENSE PROVISIONS

§ 118.10 BUSINESS LICENSE.

(A) *License required.* It shall be unlawful for any person, firm, or corporation to engage in the business of operating a taxicab company or taxicab dispatch company in the city without first having secured a license therefor.

(B) *Application.* Applications for a license to engage in the business of operating a taxicab company or taxicab dispatch company shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

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- (1) The name, home address, home phone number, business address and business phone number of the applicant.
 - (2) Trade name under which the applicant proposes to do business.
 - (3) A description, including the motor vehicle license plate and vehicle registration number, of the motor vehicles to be used in the operation of the business.
 - (4) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license; such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days advance written notice to the city; such policy shall provide combined primary and excess coverage which meet a \$500,000 minimum limit. A taxicab business licensed on the date on which this section shall take effect shall adjust its insurance coverage no later than the next anniversary date of that policy.
 - (5) A written statement from the insurance company which issued the certificate of insurance for the applicant citing the maximum number of taxicabs which may be in use for passenger service under the provisions of the insurance policy, and the number of taxicabs listed on the certificate of insurance for use as replacement vehicles.
 - (6) A description of the proposed location of the business and dispatch service. The business location and dispatch service location must be consistent with the Zoning Code, Chapter 155 of this code of ordinances. The business must be located within the city. The City Clerk must be notified, in writing, at least seven days prior to a change of business or dispatch service location elsewhere within the city limits. A move of the business location outside of the city shall result in a revocation of the taxicab business license and shall require that the taxicab comply file a new application for a taxicab business license under the fee structure and requirements included in this subchapter.
 - (7) A description of the facility to be used for the maintenance, repair, and inspection of taxicabs. Said facility must be at least 500 square feet in area, may be located at another site within a reasonable distance from that listed as the business location, or may be another separate business entity within a reasonable distance from the business location of the taxicab company and designated by the taxicab company as the facility that will be used for the maintenance, repair, and inspection of its taxicabs.
 - (8) A statement indicating whether the applicant proposes to hire drivers as employees, to lease its vehicles or services to self-employed independent contractors or both.
 - (9) Proof that the company has been issued a Worker's Compensation policy, if required, by an insurance company licensed to do business in the state.
- (C) The City Clerk shall issue an original or renewed taxicab business license after receipt of the application and a full review by appropriate personnel.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.11 MINIMUM REQUIREMENTS.

(A) An applicant for a taxicab company business license must meet the following minimum requirements:

(1) Taxicabs shall be equipped with two-way communication equipment and have an arrangement for calling for prompt assistance in the event of a breakdown en route.

(2) The taxicab company shall publish hours of dispatch service in all display advertising.

(3) The taxicab company shall have a published business telephone number.

(B) In addition to those standards set forth in this chapter, a taxicab business license shall be denied to the following persons:

(1) To a corporation which is not licensed to do business in the state.

(2) To an applicant other than the registered owner or lessee of the vehicles.

(3) To a corporation if any principal officer thereof or any person having actual ownership interest therein has a disqualifying criminal conviction.

(4) To an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction.

(5) To any applicant whose taxicab business license, taxicab dispatch company license, or Airport Access Permit has been previously revoked or suspended. Exception: An applicant whose license has been revoked merely for failing to renew in a timely manner may be considered for licensure.

(C) Every vehicle used as a taxicab shall be of the closed type, having at least two doors for direct and unimpeded access to the passenger area behind the driver's seat. The doors shall be so constructed so that they will remain securely fastened during normal operation, while the taxicab is in motion, but may be readily opened by a passenger in case of emergency.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.12 TAXICAB DRIVER'S LICENSE.

(A) *License required.* No person shall drive a taxicab unless he shall have secured a license therefor as herein provided.

(B) *Application.* Applications for a license to drive a taxicab shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1) The name, age, home address, social security number, and telephone number of the applicant.

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(2) Statement of whether applicant is employed by a licensed taxicab company, leases a vehicle or services from a taxicab company, or is in any manner affiliated with one or more taxicab companies as an independent contractor.

(3) Proof of possession of a valid New Hampshire driver's license and a complete motor vehicle record for the five years preceding the application from the Motor Vehicle Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of-state agency or agencies if not a resident of New Hampshire during the five years preceding the application.

(4) A statement signed by the applicant that his physical and mental health is clear of any incident or history which might demonstrate an inability to safely operate a taxicab.

(5) A complete criminal record of the applicant obtained from the Criminal Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of-state agency or agencies if not a resident of New Hampshire for the years preceding the application.

(6) Two recent passport photographs of the applicant, or photographs of such size as previously approved by the City Clerk.

(7) Any other information reasonably required by the Board of Mayor and Aldermen.

(8) The results of a drug screening urine test for potential drug use, conducted in accordance with § 118.22(A), as evidence that he/she does not use illegal drugs.

(C) *Standards for denial.* In addition to the application requirements set forth in this section, a license to drive a taxicab shall be denied to the following persons:

(1) An applicant who has not attained the age of 18 years.

(2) An applicant who has received a disqualifying criminal conviction, or who has been imprisoned at any time during the period for a disqualifying criminal conviction, provided that the conviction was for an offense which rationally related to the purpose of licensing taxicab drivers.

(3) An applicant who has received a disqualifying motor vehicle conviction, or whose privilege to operate a motor vehicle in any jurisdiction has been revoked and/or suspended at any time during the five years preceding the application for any reason.

(4) An applicant who is denied a taxicab drivers license under the standards of this section, or who has reason to believe that he/she may be denied a taxicab drivers license under these standards, may file a written request for a review of the application before the Committee on Administration. The Committee on Administration will approve or disapprove the fitness of the applicant for a taxicab driver's license. The Committee on Administration may require the submission of qualifying evidence to make an assessment, including character references and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.

(5) Driver must present an appearance which is not offensive to the public.

(6) An applicant who is under suspension or revocation from activities conducted at the Manchester Airport. Exception: An applicant whose license has been revoked merely for failing to renew in a

timely manner may be considered for licensure.

(7) Conviction of multiple motor vehicle violations of such a nature and/or number during the five years preceding the application as to indicate a habitual or frequent disregard for traffic laws, for the safety of others using the roads, or for the safety of his or her fares.

(8) An applicant who is required to register as a sexual offender or as an offender against children under R.S.A. 651-B:6.

(D) Driver must present an appearance which is not offensive to the public.

(E) The City Clerk shall make and keep a written record of every decision to deny an application for a taxicab business license for a period of one year.

(F) The City Clerk shall issue an original or renewed license after receipt of application or renewal documentation and upon full review by appropriate personnel.

(G) During each licensing year, the office of the City Clerk shall coordinate random drug tests of licensed taxicab drivers and licensed independent contractors, in accordance with the provisions of § 118.22(B).

(Ord. passed 4-4-95; Am. Ord. passed 2-4-97; Am. Ord. passed 4-7-98; Am. Ord. passed 10-3-00; Am. Ord. passed 8-6-02) Penalty, see § 118.99

§ 118.13 APPLICATION FEES.

(A) Each application for a license to operate a taxicab company must be submitted with a fee based on the square footage formula outlined in § 110.20 of this title. A taxicab company located outside of the city shall pay an annual license fee of \$100. The fee will be refunded if the license is not granted. If the license is granted, the application fee shall serve as the fee for the initial license.

(B) Each application for a license to drive a taxicab must be submitted with a fee of \$80. The fee will be refunded if the license is not granted. If the license is granted, the application fee shall serve as the fee for the initial license.

(Ord. passed 4-4-95; Am. Ord. passed 4-7-98)

§ 118.14 INDEPENDENT CONTRACTORS; APPLICATION FEE.

(A) Upon entering into all agreement with a taxicab business, an independent contractor shall file notice with the City Clerk, in writing, of such agreement. Copies of any signed lease, contract, or other form of agreement shall accompany the notice. Amendments, renewals, or changes to the lease, contract, or agreement shall be submitted to the office of the City Clerk as they occur.

(B) An independent contractor who owns his own taxicab shall designate the facility to be used for the maintenance, repair, and inspection of that taxicab as provided for under § 118.10(B)(6) of this subchapter and shall not be required by the taxicab business he is associated with to use the taxicab business' designated

facility. The owner of a taxicab shall be responsible for fulfilling the vehicle inspection and cleanliness requirements of this chapter.

(C) The owner of a taxicab shall be responsible for paying the costs of insurance required under § 118.10(B)(4) of this subchapter.

(D) The owner of a taxicab shall be responsible for paying the taxicab vehicle fee required under § 118.15(A)(1) of this subchapter.

(E) Applications for a license to operate as a taxicab independent contractor shall include all information requested of a taxicab business as provided for under § 118.10 of this subchapter, all information requested of a taxicab driver as requested under § 118.12 of this subchapter, and any other information reasonably required by the Board of Mayor and Aldermen or Taxicab Committee which may include a review of applicant's criminal, motor vehicle, or financial records, to the extent necessary and appropriate. In addition, an application for a license to operate as an independent contractor shall be accompanied by a Workers' Compensation Certificate of insurance for the independent contractor and his employees.

(F) Each application for a license to operate as an independent contractor must be submitted with a fee of \$160. The fee will be refunded if the license is not granted. If the license is granted, the application fee shall serve as the fee for the initial license.

(Ord. passed 4-4-95; Am. Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.15 LICENSE FEES.

(A) (1) An applicant approved to operate a taxicab business or taxicab dispatch company shall pay an annual fee of \$400 per vehicle used in the operation of the business, and the license shall expire annually on April 30. A taxicab business or taxicab dispatch company may keep a reasonable number of backup vehicles to be used as substitutions for its licensed vehicles. Annual fees need not be paid for these backup vehicles, but the vehicle identification numbers must be on file with the City Clerk. License renewals shall occur annually between April 1 and April 30 of each year, and the taxicab business or taxicab dispatch company shall note any changes to its original application that may have occurred. Licenses not renewed after May 10 shall be revoked, and a new application process as provided for in this subchapter shall be required if the taxicab business or taxicab dispatch company chooses to renew its operation.

(2) Licensees whose initial application for a taxicab vehicle license is received by the City Clerk after May 1 of the year, or who renews a license in effect during the calendar year following enactment of this title shall be subject to all annual license fees on a proration schedule as follows:

<i>Business Start Date</i>	<i>Applicable Licensing Rate</i>
May 1 - July 31	100%
August 1 - October 31	75%
November 1 - January 31	50%
February 1 - April 30	25%

(3) In the event that it becomes necessary to transfer or re-issue a taxicab driver's license or

taxicab vehicle license during the licensing period, the licensee shall pay a fee of \$10.00 for each license issued. All such licenses shall still expire on April 30 of each year.

(B) (1) Any applicant approved as a taxicab driver must pay an annual fee of \$80. Each license to drive a taxicab shall expire on April 30 of each year. Renewal of each license must be requested at least 30 days prior to license expiration. Licenses not renewed after May 10 shall be revoked. A request for an annual license renewal shall be accompanied by a record of criminal and motor vehicle convictions that may have occurred during the preceding 12 months and the licensee shall note any changes on his original application that may have occurred.

(2) The City Clerk shall deliver to the licensee an identification card, an approximate size of four inches by six inches, setting forth the number and terms of the license, a photograph, the name and personal description of the licensee, including age, height, weight, complexion, color of hair, and color of eyes. The licensee shall, when driving or in charge of a taxicab, display the card conspicuously in a holder in his taxicab. The licensee shall show the card whenever so requested by a representative of the City Clerk's office, any passenger, or any law enforcement officer.

(C) An applicant approved as a taxicab dispatch company or taxicab business and located within the city shall pay an annual license fee based on the square footage formula outlined in § 110.20 of this title. A taxicab dispatch company or taxicab business located outside of the city shall pay an annual license fee of \$100. License renewals shall occur annually between April 1 and April 30 of each year, and the taxicab dispatch company or taxicab business shall note any changes to its original application that may have occurred. Licenses not renewed after May 10 shall be revoked, and a new application process as provided for in this subchapter shall be required if the taxicab dispatch company or taxicab business chooses to renew its operation.

(D) An applicant approved as an independent contractor shall pay an annual license fee of \$180. License renewals shall occur annually between April 1 and April 30 of each year, and the independent contractor shall note any changes to his original application that may have occurred. Licenses not renewed after May 10 shall be revoked, and a new application process as provided for in this subchapter shall be required if the independent contractor chooses to renew his operation.

(Ord. passed 3-7-95; Am. Ord. passed 4-4-95; Am. Ord. passed 4-7-98; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.16 SUSPENSION OR REVOCATION OF LICENSE.

(A) The Committee on Administration shall have the responsibility of establishing the procedure for screening applicants for licenses issued under this subchapter, for assigning additional penalties for noncompliance with this subchapter or of any city ordinances or state statutes regulating the conduct of such business, and for the suspension, revocation, revision, or reinstatement of such licenses as provided for by this chapter.

(B) No taxicab driver's license shall be effective for the purposes of this subchapter during any period in which the operator's motor vehicle license is suspended or revoked, or following a positive drug test as provided for under § 118.12(G) of this chapter until such license is reinstated by the Committee on Administration; and no taxicab vehicle license shall be effective for the purposes of this subchapter during any

period in which the owner's insurance coverage, as required under § 118.10 of this chapter, is no longer in effect or does not meet the coverage requirements of this chapter. Restoration of this suspended license under this section may not be made by the City Clerk until the circumstances which led to the suspension have been corrected.

(C) The City Clerk may suspend or revoke any license granted under the provisions of this subchapter after three violations or for cause. The City Clerk shall make reasonable attempts to notify the licensee in writing of his decision using the licensing information available to him. The licensee shall make a written request for such a hearing within ten days of the date of the notice of the City Clerk's decision. The City Clerk shall schedule a hearing within ten days of the licensee's request, notifying the licensee of the date. Save where the underlying circumstances of the suspension or revocation represent an immediate danger to the lives, health, or safety of the citizens of Manchester, the action shall be stayed pending a reasonable opportunity for the licensee to be heard before the Committee on Administration. In the event the action is not stayed, a hearing before the Committee shall be scheduled, upon request, as soon as practicable. The Committee on Administration may restore the license, sustain the suspension or revocation, or otherwise set such conditions on the license as it deems appropriate. The licensee will be notified of the decision of the Committee which shall be final. If the licensee fails to request a hearing within the allowed time-frame, the City Clerk's suspension or revocation shall be allowed to take effect, however the licensee may request the hearing at a later time.

(D) A license may be suspended or revoked upon a finding that the licensee has:

(1) Falsified any record, document, or information required to be kept or submitted by this subchapter or failure to supply information asked or required of the applicant.

(2) Driven or authorized any person to drive a taxicab which was not equipped and in safe condition as required by the laws of the state or the provisions of this chapter.

(3) Used, or authorized to be used, a trade name, color scheme, or other identification upon a taxicab or in any advertising or public listing, which was likely to be confused with the registered trade name, scheme, or identification of another licensee or which tended to deceive or mislead the public as to the type of service offered.

(4) Carried any passenger to his destination by a route that was not the safest and most direct, unless the customer specifically authorized the deviation or alternate route.

(5) Refused to accept as a passenger any person who requested transportation when the taxicab was not already carrying a passenger, unless the person created a hazard to the driver's safety or was unable to pay the fare.

(6) Activated the taximeter when the taxicab was not employed or failed to activate the meter at the beginning of each trip, unless the transportation was provided pursuant to a written contract or as otherwise provided for in this chapter.

(7) Drove or authorized a driver to drive a taxicab who does not have a valid taxicab driver's license.

(8) Declined to provide service to a neighborhood of the city, unless the operator provided a sound basis therefor, or refused to respond to a call from a dispatcher because of the location of the pickup,

unless the operator provided a sound basis therefor.

(9) Violated any provision of this chapter.

(10) Engaged in any loud argument, fight, or other disturbances; harassed, threatened or assaulted another person; intentionally damaged, destroyed or threatened to damage or destroy any property; or in any other manner engaged in conduct detrimental to the safe and efficient transportation of passengers.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.17 NONTRANSFERABILITY.

(A) Licenses granted under this subchapter shall remain the property of the city and are to be returned to the City Clerk's office during a period of suspension, after revocation, if the taxicab company ceases to operate, or if the taxicab driver shall cease to work as a taxicab driver for a period of 60 consecutive days.

(B) No taxicab business license or taxicab dispatch company license held by a corporation, association, partnership, individual, or other entity, shall be transferred to another except in accordance with the following procedure:

(1) Notice of the proposed transfer shall be delivered to the Taxicab Committee through the City Clerk's office at least 30 days prior to the date of the transfer.

(2) The notice of the proposed transfer shall include a new taxicab company business license application, with the initial fee, as outlined in §§ 118.10 and 118.13 of this subchapter. Approval of the proposed transfer of the license is contingent upon approval of the application by the party or parties who wish to hold the business license. The Committee on Administration will approve or disapprove the fitness of the proposed transferees as license holders within 21 days after receipt of notice of the proposed transfer and report its findings to the City Clerk who shall notify the taxicab company that requested the proposed transfer and the applicant of the committee's decision.

(3) Any business license transferred other than in accordance with this section shall be void and the business license shall at once be surrendered to the City Clerk.

(C) No taxicab vehicle license shall be displayed on any vehicle other than as outlined in § 118.15 of this subchapter.

(D) No taxicab driver's license shall be transferred to another individual.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.18 SPECIAL REQUIREMENTS AND FEES.

(A) Taxicabs licensed in other cities or towns may drop off fares in the city if such fares were picked up in another city or town, but only taxicabs licensed by the city may pick up passengers within the limits of the

city.

(B) (1) A taxicab company located outside the limits of the city may apply for a business license to engage in the business of operating in the city and thereby meet the licensing requirements authorizing the company to pick up passengers within the city limits. The taxicab company shall file an application as provided for in this subchapter and shall meet the requirements therein, except for § 118.10(B)(6) of this subchapter, location of the business within city limits.

(2) *Apportioned license fees.* Any applicant which does not have its business office located in the city, and for which only a portion of the business is conducted in the city, shall pay the full application fee for a license to operate a taxicab company as outlined in § 118.10 of this subchapter, and the taxicab business shall pay an apportioned vehicle license fee, which total amount shall not be less than 25% of the vehicle license fee outlined in § 118.15 of this subchapter, to be determined as follows:

(a) If 25% of the business or less involves the pickup of passengers within the city limits, the fee shall be 25% of the license fee imposed by this subchapter.

(b) If more than 25%, up to and including 50% of the business involves the pickup of passengers within the city limits, the fee shall be 50% of the license fee imposed by this subchapter.

(c) If more than 50%, up to and including 75% of the business involves the pickup of passengers within the city limits, the fee shall be 75% of the license fee imposed by this subchapter.

(d) If more than 75% of the business involves the pickup of passengers within the city limits, the license fee shall be the entire fee imposed per vehicle by this subchapter.

(e) The application for the taxicab business license shall be accompanied by documentation, such as dispatch records and drivers' logs, which establishes to the satisfaction of the City Clerk that the applicant qualifies for apportionment of the license fees as set forth in this section. If such documentation is not provided which establishes that the fees should be apportioned to the satisfaction of the City Clerk, the fee shall be the entire unapportioned fee imposed by this subchapter.

(f) The taxicab company shall be required to base its request for apportionment of fees on its entire annual pickup and drop off history but may elect to designate and license only a specific number of vehicles which will be licensed to pickup passengers in the city limits.

(C) The taxicab company, its vehicles, and drivers shall comply with all provisions provided for in this chapter.

(D) Drivers of vehicles licensed under this section shall secure a license from the city as provided for in this subchapter and conform to all requirements and fees as provided for herein.

(Ord. passed 4-4-95) Penalty, see § 118.99

DRUG AND ALCOHOL POLICY

§ 118.20 PURPOSE.

(A) It is the policy of the city that its licensed drivers of taxicabs(hereinafter, the licensees) be free of substance abuse. The abuse of alcohol or the use of illegal drugs reduces awareness and increases the potential for accidents. Substance abuse thereby increases both the risk of injury to fares and citizens of the city and the risk of damage to public and private property.

(B) It is the policy of the city that the use or possession of alcoholic beverages or illegal drugs by taxicab licensees while on duty is prohibited. Licensees shall not report for duty under the influence of alcoholic beverages or with sufficient amounts of illegal drugs in their system so as to give rise to a positive drug test or impair their job performance. For purposes of this policy, the term **ILLEGAL DRUG** means any intoxicant, any narcotic, marijuana, or any controlled drug, save medication prescribed for a licensee by a licensed physician, presuming the use of such is consistent with the prescription and with the operation of a motor vehicle. Violations of this policy shall result in disciplinary action, including immediate suspension of the vehicle license.

(Ord. passed 4-7-98)

§ 118.21 PROHIBITED CONDUCT.

A licensee is expected to report for duty in an appropriate mental and physical condition for work. Accordingly, a licensee shall not:

(A) Work or report to work under the influence of alcohol or illegal drugs. A licensee shall be deemed under the influence of alcohol if he/she has an alcohol concentration of 0.04 or more or is impaired to any degree as a result of the consumption or use of alcohol. A licensee shall be deemed under the influence of illegal drugs if he/she has sufficient quantities of controlled drugs in his/her system to give rise to a positive finding on a drug test or is impaired to any degree as a result of the consumption, inhalation, or injection of alcohol, drug, or any other intoxicating substance, or any combination thereof;

(B) Consume alcohol or possess an open container while on duty;

(C) Engage in any drug-related conduct prohibited under state or federal law; or

(D) Engage in any other manner of conduct involving alcohol, drugs or any other intoxicating substance which adversely affects his/her job performance or is detrimental to the safety of his/her fares and the public.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.22 TYPES OF TESTING.

(A) *Pre-licensing.* All applicants for licensure must submit to a urine drug test as evidence that

he/she does not use illegal drugs. The test shall be conducted by a local physician, lab or hospital in accordance with Substance Abuse and Mental Health Services Administration (hereinafter, SAMSHA) standards. The applicant shall complete the test at a time and place specified by the office of the City Clerk.

(B) *Random.* The city also conducts random drug and alcohol testing. All licensees will be included in a random selection system. The random selection system shall provide an equal chance for each licensee to be selected for each random test. Accordingly, a particular licensee may be selected for successive tests or may not be selected at all during the licensing year. Random tests shall be reasonably spread throughout the year. The city shall annually test a minimum of 50% of its licensees for drugs and a minimum of 25% of its licensees for alcohol. Upon notification of selection, a licensee shall complete the test at a time and place specified by the office of the City Clerk. The test shall be conducted by a local physician, lab or hospital in accordance with SAMSHA standards. All random drug and alcohol tests shall be paid for by the city; however, any other costs associated with a second analysis of the licensee's specimen, counseling, treatment, rehabilitation or other medical follow-up shall be paid for by the licensee.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.23 SUBSTANCES FOR WHICH TO BE TESTED.

Any applicant who tests positive for the presence of any of the drugs set forth herein shall be deemed unsuitable for licensure. Any licensee who tests positive for any of the substances set forth herein shall be deemed unsuitable for continued licensure and shall be subject to the provisions of § 118.28. The substances for which the city may test are as follows:

- (A) Alcohol
- (B) Amphetamines
- (C) Cocaine
- (D) Marijuana
- (E) Opiates
- (F) Phencyclidine (PCP)

The city reserves the right to expand the scope of substances for which it will test at any time.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.24 REFUSAL TO TEST.

Any person licensed to drive a taxicab by the city shall be deemed to have given consent to the drug and alcohol tests employed by the city under this chapter. Accordingly, refusal to submit to any drug and alcohol test established herein shall be grounds to suspend a license. Any conduct intended to obstruct or unreasonably delay the proper administration of a test shall be deemed a refusal to submit to the test. In the event that a

licensee cannot provide a sufficient urine or breath specimen, the city may direct the individual to a physician for purposes of evaluation. If the physician cannot find a legitimate medical explanation for the licensee's inability to provide a sufficient urine or breath specimen, the licensee shall be deemed to have refused to submit to the test.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.25 SUBSTANCE ABUSE EVALUATION; RETURN TO DUTY; FOLLOW-UP TESTING.

(A) Any licensee who engages in prohibited conduct shall be provided with the name, address and telephone numbers of a qualified substance abuse professional (SAP). In order to requalify for a license, the licensee shall be evaluated by the SAP, submit to any treatment the SAP prescribes, and successfully complete a return to duty and/or alcohol test. The licensee shall also be subject to follow-up testing. Follow-up testing is separate from and in addition to any pre-licensing or random testing procedures. The schedule for follow-up testing shall be unannounced and in accordance with instructions of the SAP. Follow-up testing may continue for a period of up to 12 months following the licensee's return to duty. Follow-up testing shall consist of no fewer than six tests. The cost of any SAP evaluation, prescribed treatment, return to duty and follow-up testing shall be paid by the licensee.

(B) Nothing in this section shall be construed to limit or in any way affect the authority of the Committee on Administration to prescribe the period of suspension or revocation it deems appropriate under § 118.16.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.26 LABORATORY PROCEDURES; RETEST.

(A) All specimens collected under this chapter will be submitted to a laboratory certified by SAMSHA. All specimens initially testing positive will be confirmed by a subsequent confirmation test before the laboratory reports a result as positive. The laboratory shall report all positive laboratory test results to the Medical Review Officer. The licensee or applicant shall also be notified of any positive laboratory test results and have an opportunity to explain to the Medical Review Officer such result. In the event the Medical Review Officer determines there is no legitimate basis for the licensee's objection, the test will stand as reported. In the event the Medical Review Officer determines there is an explanation for the positive test result other than the use or abuse of illegal drugs or alcohol, the test result shall be reported back as negative.

(B) A licensee or applicant whose test results are positive may, at his/her own expense, request a retest of the original sample. Such a request shall be made within 72 hours of the licensee or applicant being notified of the original test results; otherwise, any right to a retest shall be deemed waived. The retest shall be performed by a SAMSHA certified lab. In the event the retest demonstrates a negative result, the licensee will be reimbursed for the cost of the retest.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.27 DISCIPLINARY ACTION.

(A) In addition to any other penalty permitted under this chapter, a licensee shall be subject to immediate suspension in accordance with the procedures established in § 118.16 if he/she:

- (1) Engages in prohibited conduct as set forth in § 118.21;
- (2) Refuses to submit to any drug and alcohol test which the city may administer under this chapter; or
- (3) Fails to comply with provisions of § 118.25.

(B) Notwithstanding any other provision of this chapter, any licensee having an alcohol concentration between .02 to .039 shall immediately be suspended for a period of ten days. If the licensee has any subsequent violation of any alcohol prohibition, he/she shall be required to comply with the provisions of § 118.25 in order to requalify for licensing.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.28 CONFIDENTIALITY.

Individual test results and rehabilitation records, if any, for applicants and licensees shall only be used to determine adherence to this chapter and in defense of any administrative or judicial action initiated by the licensee against the city. Unless release is required under R.S.A. 91-A or by a valid subpoena, the test results and rehabilitation records shall otherwise be kept strictly confidential and released only upon the written consent of the person who submitted to the test. However, any individual who has submitted to drug testing in compliance with this chapter is entitled to access to his/her records related to such testing upon written request as long as such is available.

(Ord. passed 4-7-98) Penalty, see § 118.99

§ 118.29 SUBSTANCE ABUSE TESTING ACCOUNT.

There is established a special account to be known as the Substance Abuse Testing Account. Such account shall consist of any money appropriated or received for the purposes of this chapter and from revenues derived from a portion of the licenses fees assessed under §§ 118.13(B), 118.14(F) and 118.15(B) and (D) as follows: \$65 for each application under §§ 118.13(B) and 118.14(F), and \$35 for each license issued under § 118.15(B) and (D). Such monies shall be used by the City Clerk to cover costs associated with testing conducted under § 118.22. The account shall be nonlapsing and continually appropriated to the City Clerk for the purposes of this chapter.

(Ord. passed 4-7-98)

OPERATIONAL REQUIREMENTS

§ 118.30 TAXIMETER REQUIRED; EXCEPTIONS.

(A) Every taxicab in the city shall be equipped with a mechanical instrument or device commonly called a taximeter, approved by the Sealer of Weights and Measures, by which the charge for hire of such taxicab is mechanically calculated and on which such charge is shown by clear and distinct figures under adequate light.

(B) Cars for hire used for conveying passengers for attendance at marriages, funerals, christenings, or for use in ceremonial parades need not be equipped with a taximeter.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.31 TAXIMETERS TO BE TESTED AND APPROVED.

All taximeters shall be tested and approved by the Sealer of Weights and Measures, or by an independent specialist designated as an agent for the Sealer of Weights and Measures. Testing will be done during the month of April, or such other date as may be required by the state, of each year, when tires are replaced on a taxicab, or at any other time required by the Sealer of Weights and Measures.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.32 OPERATION OF TAXIMETERS.

Every taximeter shall only be operated with the flag on mileage position while conveying a passenger or passengers and only on time position when the taxicab is standing or waiting in accordance with the provisions of this subchapter. No taximeter shall be changed from mileage to time operation while standing at traffic-control signals, or during delay caused by congested traffic conditions.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.33 RATES FOR FARES ESTABLISHED.

No owner or driver of a taxicab shall charge any passenger or passengers any rate for service within the limits of the city other than is provided for in this section or as allowed by § 118.34 of this subchapter.

(A) *Metered fares.* For the first one-sixth mile or fraction thereof for one passenger, \$3; and for each

one-sixth mile or fraction thereof thereafter, \$.25; and for each additional passenger, \$.25.

(B) *Flat rate taxi fares.* Notwithstanding division (A) of this section, if a trip begins or ends within the city and the other point of destination is the Manchester Airport, the taxi flat rate fare schedule in effect and issued by the airport authority shall apply. Each taxicab shall maintain a copy of that fare schedule and zone maps in the vehicle and make them available for a passenger's inspection upon request.

(C) For waiting time after the cab has arrived at a place of call or while standing at the direction of the passenger, \$.25 for each minute or fraction thereof.

(D) No charge shall be made for waiting in advance of the time at which the cab is wanted as given in the call nor for delay due to inefficiency of the taxicab or its operation nor for mileage or time other than proceeding in the in most direct way to the destination.

(E) Hand luggage shall be carried free.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.34 DISCOUNT FARES.

(A) A taxicab company may file a request to offer discounts on fares with the City Clerk which will be reviewed by the Committee on Administration within 30 days of the filing or receipt of the request. The Committee on Administration review and decision to approve or deny such request shall be final, but the taxicab company may refile the same request for further review six months from the date of denial or may submit a revised request to offer discounts at any time as a first-time filing.

(B) Requests for discounts on fares shall set forth the conditions that must be met to qualify for the discount including, but not limited to, identification of the targeted market (example: senior citizens, students, and the like), identification of the time period discounts shall be offered (example: "night owl rate" from 12:00 a.m. through 5:00 a.m.), and the intended length of time the discount fares will be available to the public (example: six months).

(C) All requests for discounts on fares shall be expressed as a percentage discount, dollar-off discount, or shall be offered in the form of a coupon book or trip tickets.

(D) Notice of any lesser rates being offered by the taxicab company shall be displayed in clear and legible letters immediately adjacent to the city rate card required in § 118.36 of this subchapter.

(E) The Committee on Administration may recommend amendments, alterations, or changes to any request filed by a taxicab company and approve such request on condition that the terms of such amendments, alterations, or changes are agreed to and met by the taxicab company.

(F) Notwithstanding the above, a taxicab company may offer reduced fares for regularly scheduled passengers provided that all such fares recorded in the driver's log are clearly noted as such.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.35 RECEIPT TO BE PROVIDED.

Taxicab drivers shall provide customers with a receipt, when requested. The receipt shall include the following information in legible form: name of the vehicle driver; the taxi driver's license number; the date, time, and place of origin and departure; miles and time travelled; and the total fare paid or charged.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.36 RATE CARDS.

Upon the issuance of a license for a taxicab business, the licensee shall receive from the City Clerk a card for each vehicle approved for use in the business upon which the established rates shall be plainly printed. Each rate card issued shall be conspicuously displayed in every taxicab so that it can be seen by a passenger in either day or night.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.37 RECORDS REQUIREMENTS.

(A) Each duly licensed taxicab company or taxicab dispatch company shall be required to keep a log detailing all requests for services as received and shall contain not less than the following information: date and time received, address of caller, destination, cab to which call was assigned, and the fare charged therefor. The log shall be maintained in order by date at the principal place of business of each duly licensed taxicab company for the current calendar year and for the calendar year immediately preceding the current calendar year and shall be made available upon request, for review by any law enforcement agency or by the office of the City Clerk. A taxicab dispatch company shall maintain such records in such a manner that the activity of separate taxicab companies and/or leased vehicles is clearly identified.

(B) Every vehicle owner shall provide for each of his licensed taxicabs a suitable log book in which shall be kept the name of the operator, the date, time, origin, and destination, and amount of each fare. If a trip is made pursuant to a contract as may be allowed by this subchapter, the log shall show the fare charged and the identification of the contract under which the transportation was provided. The log book shall be kept available for inspection by members of the Police Department and the office of the City Clerk, and shall be preserved for at least one year from the date of the last entry at the address for which the vehicle license is issued.

(C) A taxicab company or taxicab dispatch company shall notify the City Clerk within three working days of receipt of any knowledge that a taxicab driver associated with this taxicab business has had his motor vehicle operator's license suspended or revoked by the state. Similarly, if the City Clerk shall be made aware that a taxicab driver has had his motor vehicle operator's license suspended or revoked, he shall notify the taxicab business or taxicab dispatch company which he is associated with, as may reasonably be determined by the licensing documentation, of the suspension of the licensee's taxicab driver's license by the city.

(D) Every vehicle owner and vehicle driver shall maintain within every vehicle, proof of insurance covering the vehicle with such policy limits and coverage as established by § 118.10(B)(4) and clearly identifying the vehicle(s) covered.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.38 CONSENT OF FIRST PASSENGER NEEDED FOR CARRYING OTHERS.

(A) No operator of a taxicab shall carry any person other than the passenger first employing his cab without the consent of the first passenger.

(B) Any taxicab agent at any bus, railroad, airport, or other terminal or station, before directing a second passenger to a taxicab employed, shall ask the person first employing the taxicab if he consents to another passenger or passengers.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.39 CONDITION AND APPEARANCE OF VEHICLES.

(A) It shall be the responsibility of the owner of each taxicab company and the lessees of the taxicabs to keep the vehicles in operable condition according to the State Motor Vehicle Inspection Laws. In addition to the annual inspection required by the state, a midyear, second inspection of taxicabs is to be made in the sixth month following the required state inspection. All inspections are to be done at New Hampshire registered inspection stations and shall include all the physical properties of each taxicab and the adherence to the rules of this section. A checklist will be supplied to the inspection station by the office of the City Clerk upon notice given to the City Clerk as to the date, time, and place that the inspection will occur. The office of the City Clerk may assign a representative or designate a police officer to ensure that the inspection is completed at a New Hampshire certified motor vehicle inspections station. No taxicab can be operated on or after the twenty-fifth of the midyear inspection month unless the City Clerk has received an approved inspection form completed by the station inspector.

(B) The City Clerk shall be notified of any physical damage to a taxicab reported to the vehicle owner's insurer, within 48 hours of such damage. Such notification may be a copy of any written report submitted to the insurance company. The City Clerk may order a special inspection of the damaged vehicle at a New Hampshire registered inspection station.

(C) The interior of all taxicabs shall be thoroughly cleaned at least once each week, shall be clean and sanitary at all times, and shall be suitable for the occupancy and safety of passengers.

(D) All drivers shall be courteous to the public, clean and neat in appearance, shall not use tobacco in any form while transporting passengers, shall not drink intoxicating liquors during their hours of employment, shall operate their vehicles at a reasonable rate of speed and shall obey the laws of the road and all traffic regulations.

(E) Vehicles will be subject to random inspections. Owners will be given no more than three

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working days to correct deficiencies and may be ordered to take vehicles out of service until such deficiencies are corrected.

(F) Every taxicab licensed under the provisions of this chapter shall have displayed near the outside of each forward door or of each rear door, the name or the trade name of the taxicab company or taxicab dispatch company holding the vehicle license, in clearly visible letters of a minimum three inches in height.

(G) Every owner of a taxicab which is temporarily removed from passenger service shall clearly identify such vehicle as being "out of service" via an exterior light, if so equipped, or by placing a placard in the vehicle's rear window identifying the vehicle as being out of service. The placard shall be placed in such a way so as to be visible from the rear but not so it is in conflict with state motor vehicle regulations.

(H) Every vehicle used as a taxicab shall be full-size and not be more than nine years old by model year. This section shall become effective April 30, 2001.

(I) The City Clerk shall issue the taxicab business or taxicab dispatch company a medallion to display on each vehicle licensed under § 118.15(A)(1) of this chapter. This plate shall bear an identification number, assigned by the city for each licensed taxicab and must be displayed on the rear thereof, plainly visible to the public. This plate shall be firmly fastened to the body of the vehicle in such a manner that it will not easily become detached, and under no conditions shall the plate be attached to the state registration plate or the bumper of the taxicab. Under no circumstances shall a vehicle be permitted to operate as a taxicab without a valid medallion properly attached to the vehicle. The number of plates issued to a taxicab company or a taxicab dispatch company shall not exceed the maximum number of vehicles which are insured for passenger service under § 118.10(B)(5) of this chapter. Out-of-service vehicles shall be identified as provided for under § 118.39(G) of this section. However, a taxicab business or taxicab dispatch company may transfer the plate to another of its taxicab vehicles which are licensed under § 118.15(A)(1) of this chapter as backup or replacement vehicles so that those vehicles may be used in the transportation of passengers. The replacement fee for any medallion is \$15.00.

(J) Taxicabs shall be at all times clean and in good repair inside and out. "Clean and in good repair" shall mean and include, without limitation, the following:

- (1) No tears in carpeting;
- (2) No rusted dents or dents with jagged edges;
- (3) No tears in seat upholstery;
- (4) No loose trash or large amounts of dirt or sand in the interior passenger area, whether or not the area is currently occupied by a passenger;
- (5) No loose trim or body work;
- (6) No cracks in windshield or windows; and
- (7) Seat belts for all passenger seats visible and in working order.

(K) It shall be the responsibility of each vehicle owner to equip his or her licensed primary and back-up vehicles with a protective partition of a type approved by the Office of the City Clerk dividing the driver's and passenger's seats. This partition shall be enclosed in an adequate frame and constructed of material

with a minimum thickness of one-half inch and of such other specifications required by the Office of the City Clerk. The partition must be stationary and may contain an appropriate opening, not more than six inches by six inches, for the payment of fares. Partitions shall be constructed in such a manner as to accommodate the official rate card (approximately five inches by eight inches) and taxicab driver's license (four inches by six inches) which shall be displayed in clear view of the passenger and secured from the driver's side of the partition. The partition and attached rate card and driver's license shall not obstruct the driver's rear vision or the passenger's view of the taximeter. This section shall become effective on April 30, 2001.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.40 SOLICITING CUSTOMERS.

Taxicab drivers shall solicit customers only while in the driver's seat of the taxicab.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.41 LOST ARTICLES.

Taxicab drivers must check vehicles at the end of each shift for articles of value left behind by customers. When possible, the taxicab company shall notify the passenger within 24 hours that his or her articles were left behind. The Police Department shall also be provided with a description of such articles within 24 hours unless reclaimed by customers prior to that time, and the taxicab company shall retain lost articles for a period of 60 days from the date of notice to the Police Department before disposing of the articles.

(Ord. passed 4-4-95) Penalty, see § 118.99

§ 118.42 PROHIBITED CONDUCT.

The holder of a license to engage in the business of operating a taxicab business or taxicab dispatch company and the holder of a license to drive a taxicab shall not:

- (A) Operate or allow the operation of a taxicab in which the taxicab driver's license is not displayed.
- (B) Operate or allow the operation of a taxicab in violation of any of the provisions of the highway laws of the state or of the ordinances of the city regulating traffic.
- (C) Operate or allow the operation of a taxicab in which the appropriate rate card is not displayed.
- (D) Demand any fare in an amount in excess of or below the established rates.
- (E) Use a scanning device, radio, or any instrument to intercept calls of other cab companies.
- (F) Fail to maintain a log detailing all requests for services as required in such a manner that the activities of a particular company and/or leased vehicle cannot be properly identified and reviewed by the office

of the City Clerk or a law enforcement officer.

(G) Operate or allow the operation of a taxicab in which any passenger is riding adjacent to the driver, in a front seat of the vehicle, except when the rear seat is fully occupied, when training licensed drivers, or when transporting elderly or disabled persons who cannot readily enter the rear compartment of the taxicab.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00) Penalty, see § 118.99

§ 118.99 PENALTY.

(A) Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The city may enjoin or abate any violation of this chapter by appropriate action. In addition to the penalty set forth in § 10.99 of this code of ordinances, if the court finds for the city, the city shall recover its costs of suit including reasonable experts fees, attorney fees, and necessary investigative costs.

(B) The Police Department is hereby authorized to seize or immobilize any taxicab located within the city operating without a valid taxicab vehicle license. Upon such seizure or immobilization, the Police Department shall notify the owner of the vehicle of such seizure, the reason therefor, and of the place to which such vehicle has been removed or immobilized. The Police Department shall order the holding of any such vehicle for a period of not less than ten days from the date of the required notification to the owner. During this period the owner may redeem any such vehicle by correcting the violation of this chapter which led to such seizure or by providing satisfactory evidence of his ability or intent to correct the violation. Any taxicab which is impounded or immobilized and which is not redeemed within 30 days of the date of notification as described in this section shall become the property of the city. Cost for towing and storage charges will be billed to the owner of the taxicab seized and must be paid before the release of the vehicle to the owner who shall be responsible for removing the vehicle from storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, storage, and/or immobilization of each vehicle.

(C) If, in the judgment of a police officer, a taxicab is unsafe for public transportation, due to a violation of R.S.A. Ch. 266, the officer may order the vehicle to be taken off the road and confiscate and hold the vehicle license and medallion, until the circumstances which led to the confiscation are corrected.

(Ord. passed 4-4-95; Am. Ord. passed 10-3-00)